

The University of Chicago
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THE SCUTAGE AND KNIGHT SERVICE IN ENGLAND

A DISSERTATION PRESENTED TO THE FACULTY OF ARTS, LITERA-
TURE, AND SCIENCE OF THE UNIVERSITY OF CHICAGO,
IN CANDIDACY FOR THE DEGREE OF DOCTOR OF
PHILOSOPHY

DEPARTMENT OF HISTORY

By JAMES FOSDICK BALDWIN

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INTRODUCTION.

EARLY FORMS OF MILITARY SERVICE.

In order to discuss the development of some of the peculiar features of knight service in England, it is necessary to recall certain facts relating to the earlier forms of military service, as they existed under the Anglo-Saxon and under the Norman kings. It is not within the scope of this dissertation to present any new views upon the beginning of English feudalism, or the political relations of Norman to pre-Norman England. Of these trite questions it seems as though satisfactory solutions have been reached. That the Norman Conquest was "a catastrophe which determined the whole future of English Law;"¹ that in England "consecutive political history does, in a sense, begin with the Norman Conquest,"² in opposition to the older view that "it (the Norman Conquest) must be considered as an event rather than an overwhelming catastrophe,"³ appears to be pretty well established.

One of the most prevalent of all mediaeval institutions is that of the obligation of military service for land. It is an essential feature of feudalism, but it is not peculiar to feudal times or feudal countries alone. The idea is seen developed in the declining Roman Empire, when requisitions for soldiers were made by the government upon the landed proprietors;⁴ under Charles the Great, whatever may have been the theory of military duty, in practice it was made dependent on the possessors of land;⁵ in England, from the time Hengest and Horsa promised

¹ Polluck and Maitland, *Hist. Eng. Law*, I, 57.

² Round, *Feud. Eng.*, 317.

³ Palgrave, *Eng. and Nor.*, III, 596.

"It is not with the coming of William that the history or the law of England began."

Freeman, *N. C.*, V, 55.

⁴ Coulange, *La Gaule Romaine*, 292.

⁵ *Capit.*, 808.

to act in defense of Vortigern by virtue of their holding the land of Thanet, military duty for tenure is apparent in some form or other. The system naturally suggests itself and springs up spontaneously wherever the conditions are favorable. When, by reason of the demands for special training or expenditure on the part of those who comprise the fighting force of the country, the ordinary freemen can no longer be depended upon to form an adequate army, and when the nation has not a fiscal system capable of maintaining mercenary troops, the landed estates of the country are alone capable of furnishing a soldiery that will have the necessary equipment of horse and armor, to say nothing of skill at arms and military *esprit*.

So, under the Anglo-Saxon system, the host which was originally the people in arms,¹ came to depend for its strength upon the thegnhood. The thegn bore a twofold relation in the state. First, he was generally, though not necessarily, a landowner. Five hides are the traditional quantum since Alfred for a thegn to hold, yet one might be a thegn and hold less, or hold more and still not be a thegn.² The presumption was that a thegn should have the means to maintain his rank on the usual scale, and that one possessing five hides of land was "of thegn-right worthy." Secondly: as a soldier the thegn was of the character of the *gesith*, a purely personal follower and beneficiary of the king. That he was remotely a development from the early German *comes* of Tacitus is not unlikely.³ As early as the heptarchy period not only the kings, but other lords by gifts of land were providing for these antrustions, who, being bound by special oath to their lords, could be used more freely than the *fyrð*, which could be arrayed only in the defense of the kingdom, while the thegns could be mustered for any service.⁴ By reason of this personal connection with the king, the thegn-born acquired a quality of nobility after the third generation.⁵ In this capacity they resemble the knights of later time, and the documents some-

¹ Stubbs, C. H., I, 208.

³ Freeman, N. C., I, 90.

² Polluck and Maitland, *His. Eng. Law*, I, 10.

⁴ Gneist, *Self gov.*, 4.

⁵ Stubbs, C. H., I, 174.

times use the words knight and thegn interchangeably. Thus *cniht* appears in the Codex Diplomaticus, and *miles* is used by Latin writers.¹ These things, among others, led Palgrave to call the system of the Anglo-Saxons feudal. Thus:

"The feudal period of their government must be placed under Egbert, when we suddenly discover the application of feudal principles in ensuring and enforcing the imperial supremacy of the crown."²

"But the full establishment of feudality appears in the reign of Edgar."³

What is characteristic of true feudalism is not merely the relationship of letter and hirer of land, or that of lord and vassal alone, but the union of both of these.⁴ Of the twofold aspect of thegnhood, the thegn resembled the knight as a military follower of the king (or other lord), who owed personal service, at his own expense of equipment, and at his own expense during the campaign.⁵ Like the knight, the thegn on assuming his rank was ushered in with the honorable ceremony of girding with the sword and belt. The principle of commendation also was extended to the utmost before the Conquest. Every freeman must choose his lord, and the lordless man became a kind of outlaw.⁶ But in the aspect of a landholder the thegn was materially different from the knight. Among the Saxons there were none of the peculiar Roman forms of tenure, such as the *precarium*, *emphyteusis*, *colonat*. Being free from these Roman influences England developed its land system from its German foundation, and so proprietorship in land was far less complicated than in Gaul.⁷ All land, whether folk-land or book-land, was subject to the *trinoda necessitas*. Each hide was to furnish its man, and a thegn might be liable for five men or a single warrior five times as well equipped;⁸ though this principle was never carried out with strict regularity.⁹ In this way each

¹ "Hic Edwardi Regis armiger fuit, et ab illo cingulum militiae accepit." (Ord. Vit., 669. See also in Bede, *miles*.)

² Palgrave, Commonwealth, I, 586.

³ *Ibid.*, 587.

⁴ Polluck and Maitland, His. Eng. Law, I, 44.

⁵ Gneist, Self gov., II.

⁶ Freeman, N. C., I, 91.

⁷ Glasson, Droit Ang., I, 133.

⁸ Stubbs, C. H., I, 211.

⁹ Gneist, Self gov., 3.

landowner performed service according to the amount of his land. Under the feudal régime this was very different. Land that had been allotted as knights' fees owed its given quota of service irrespective of its extent or value. Lands that were not specially designated as knights' fees did not furnish this kind of service. The holder of knights' fees or a portion of one furnished the particular service that this land called for, irrespective of his own status or whatever other kind of land he might hold. The Anglo-Saxon proprietor, on the other hand, performed service, not because of a piece of land, but for the amount of his land; not *for* land, but because he was a landholder. In the case of knights' fees, however they might be divided and cut up, they ever remained knights' fees; in the case of a five-hide estate supporting one equipped as a thegn, if it was broken up, the fragments would not be different from other small estates. It is no proof of a theory, but a significant fact, that the word *beneficium* by which tenure in Gaul was commonly known does not appear in the document of England for this epoch.

The tendency which is conspicuous at a later time among the knights is noticeable among the thegns—that of becoming more attached to their landed interests than to their military functions. The kings from the time of Canute had to depend for their immediate needs upon the Hus-carls. In the summer of 1066 Harold could not keep his regular levies together during the long time he had to wait for William, and the battle of Hastings was fought largely by Hus-carls.

Such was the uncertain but simple condition of military land-tenure to the time that the Normans came in 1066. An important question then is, what ideas of tenure did William and his men bring with them? One is confronted with the lack of all distinct information of the jurisprudence of Normandy prior to the time of Philip Augustus. The most that is known is that Normandy became French rather than remained Scandinavian in character and language; that Roman influence is evident in the chartered towns; the Duke did homage to the King of France as suzerain and was a "peer" in a distinctly feudal state; the

duke received homage and fealty of vassals acknowledging their duties and services; an aristocracy became defined.¹ At the Council of Lillebonne, 1066, a dispute between the duke and barons arose over the service to be derived from their tenure, just such as afterwards arose from time to time in England over the question of foreign expeditions. Richard the Fearless, perhaps upon the suggestion of Hugh the Great, had enforced an extensive conversion of allodial lands into feudal tenure, and "the Baronage either accepted their Sovereign's bounty upon his own terms or received a new investiture of their lands."² The words *alodium*, *beneficium*, *foedum*, *honor*, *praecarium* appear in the documents defining tenures.³ Military service was due from tenures, as seen from these extracts:

"Is enim [*i. e.*, William, brother of Richard II] fraterno contubernio Oximensem ab ipso [Duke Richard II] accipiens munere comitatum ut inde exhiberet ei militiae statuta . . . dominium ejus sprevit."⁴

William the Conqueror gave to the church of Lisieux

terram de Fontaines . . . et servitium militum . . . dominium cum militibus quod dedit Olilia.⁵

The idea of the right of marriage is suggested when William of Jumièges says that Richard the Good gave to his brother William the county of Eu and a beautiful girl named Lescelina, the daughter of a man of noble birth.⁶ Orderic says:

Guillelmus Gualterii de Falesia filius fuit et in militia nimium viguit, unde Guillelmus Princeps [the Conqueror] filiam Guidmundi cum toto ei honore Molinensi contulit.⁷

It is possible that the French kings may have claimed to exercise the right of wardship over the dukes in the case of Louis d'Outre-Mer and Richard the Fearless, and in that of Henry I and William.⁸

¹ Palgrave, Eng. and Nor., III.

² Palgrave, Eng. and Nor., II, 535.

³ Polluck and Maitland, His. Eng. Law, I, 47. Neustria Pia.

⁴ William of Jumièges (Duchesne), 250.

⁵ Neustria Pia, 585.

⁶ Polluck and Maitland, His. Eng. Law, I, 48.

⁷ Ord. Vit., II, 409.

⁸ Luchaire, Inst. Monarchiques, I, 118. *Ibid.*, II, 16.

But to say that Normandy was feudal does not tell much about the system of tenures. It is not possible to say how definitely military obligations were attached to land; very likely the system was less fixed than that developed under the Norman kings in England. The general uncertainty regarding Norman institutions and the fuller knowledge at command of English law have led to a belief that the customs of Normandy as shown in *Le Très Ancien Coutumier* and the *Grand Coutumier* were a reflex of the English administration, rather than that the English tenures were an introduction from Normandy. Says Palgrave in this connection, "the laws imposed by the Norman dynasty upon the English were reflected back upon the victors;"¹ Freeman writes, "a system of feudal land-tenures was not introduced at all, but was devised on English ground."² It may not be possible to decide the question absolutely, but if it is proved that William the Conqueror instituted knights' fees, it seems a more reasonable hypothesis that he built upon what he and his followers had been accustomed to in Normandy, than that he continued the Anglo-Saxon system. What little we know of the feudalism of Normandy is more like the English knight service than is the Anglo-Saxon thegn service.

While it is not possible to determine with what ideas of land-tenure William came to England, there has also been great disagreement as to what kind of tenure was sanctioned by the Conqueror, and when knights' fees were introduced. The older view of Selden and Blackstone is represented by Hume:

He introduced into England the feudal law, which he found established in France and Normandy. . . . He divided all the lands of England, with very few exceptions besides the royal demesnes, into baronies, and he conferred these, with the reservation of stated services and payments, on the most considerable of his adventurers.³

That is, an artificial form of feudalism was foisted full-fledged upon the country, and the round numbers of a chronicler are

¹ Palgrave, *Eng. and Nor.*, III, 626.

² *N. C.*, V, 377.

³ Hume, *Hist. of Eng.*, I, chap. iv, p. 243.

accepted as authentic.¹ This view has been supplanted by Stubbs and Freeman :

It may be assumed that the actual obligation of military service was much the same in both systems, and that even the amount of land which was bound to furnish a mounted warrior was the same, however the conformity may have been produced.²

The system of military tenures . . . was a work of the days of William Rufus.³

It is strange that with all the records of the actions of the Conqueror, which in most details are quite minute, and with the Domesday Book, which is an extraordinary compendium of the economic condition of the time, there should be no direct information upon this subject. There is abundance of evidence of grants made to Normans and of regrants made to Englishmen. "He governed and disposed of the realm of England as God permitted him."⁴ It appears in Domesday that where there was much rebellion, as in Yorkshire, Staffordshire, Cheshire, Derbyshire, Shropshire, Normans were given estates ; where the people were submissive, as in Lincolnshire, Nottinghamshire, Norfolk, the English were allowed to keep their lands. William's confirmations read like the following :

Rex eorum sacramenta . . . accepit, liberalita eis donavit gratiam suam, reddidit eis cuncta quae possiderant, habebat eos magno honore.⁵

Terras autem militibus ita distribuit, et eorum ordines ita disposuit, ut Angliae regnum lx millia militum indesinenter haberet, ac ad imperium regis, prout ratio poposcerit, celeriter exhiberet.⁶

The use of the word "thegn" in the chronicle does not throw light on the question of tenure⁷ any more than the use of *miles* before the Conquest. "Thegn" is used in 1124, much later than any possible survival of the institution.

¹ For the argument showing these numbers are preposterous, see Round, Feud. Eng., 290.

² Stubbs, C. H., I, 283.

³ Will. Pict., 1066-7, 148.

⁴ Freeman, N. C., V, 377.

⁵ Ord. Vit., 1086, IV, chap. 7.

⁶ Ang.-Sax. Chron., 1087.

⁷ "And then were with him all the rich men over all England, archbishops, and suffragan bishops, abbots and earls, thegns and knights." (Ang.-Sax. Chron., 1087.)

The conclusions from these premises, or rather lack of premises, have been that "the customary service of one fully armed man for each five hides was probably the rate at which the newly-endowed follower of the king would be expected to discharge his duty. The wording of Domesday does not imply that in this respect [tenure] the new military service differed from the old;"¹ "There is no ground for thinking that William directly or systematically introduced any new kind of tenure into the holding of English land."²

The necessary corollary to these propositions is elaborately worked out by Freeman: "But we have seen that in the days of the Conqueror there was no such elaborate system of tenure [as in the charter of Henry I]. . . . The inference is obvious. The system of military tenures and the oppressive consequences which were held to flow from them were a work of the days of William Rufus."³

That is, in the fourteen years between 1086 and 1100 there was brought about a most remarkable revolution in the system of land-tenures. Not only feudal aids and incidents and the most flagrant abuses of these, but the foundation system itself are all conceived of as "not introduced into England at all, but devised on English ground by the malignant genius of the minister of Rufus." All this is stated to be not only instituted, but firmly established in the rather short reign of William II; for the inaugural charter of Henry I aims to correct not the system itself, but the "evil customs" which have unjustly sprung up,⁴ and, as Mr. Freeman says, "there is no surer witness to the firm establishment of an institution than that it is thought possible to reform its abuses without abolishing the institution itself."⁵ It is possible that even the feudal incidents were better known before William II than Mr. Freeman represents.⁶ Almost

¹ Stubbs, C. H., I, 284.

³ *Ibid.*, 377.

⁵ Freeman, N. C., V, 377.

² Freeman, N. C., V, 372.

⁴ Stubbs, *Sel. Char.*, 100.

⁶ N. C., V, 374. "Relief does not appear in evidence before William II." Yet there is an entry in Domesday which says when a Kentish alodarius dies, "Rex inde habet relevationem terrae." (p. 1.) Of the right of marriage he states that in the days of the Conqueror there is some glimmering.

the only thread upon which the Flambard theory hangs is a little weak, for the authenticity of the charter of Henry I is not above question.

If no ordinance can be produced by which military tenures were established it need not seem very strange, when one considers the peculiar spirit with which formal enactments were regarded in the Middle Age. A law to meet a particular emergency was a thing which men always shrank from. The entire bulk of the laws of William would be an insignificant amount compared with the standards of today. It would be in keeping with the general policy of William not to employ even an ordinance that would seem to be striking at the existing order of things,¹ were it possible to secure the same results by an understanding with the individual vassals. It will be further shown that a general ordinance was not necessary, when the manner of enfeoffment is considered.

To the Norman followers of William there can be no doubt that a settled feudal tenure was the most natural form of settlement.² The barons had knights personally attached to themselves—for example, the “knights of Bishop Odo;”³ and of other barons the expression “his knights” is repeatedly used.⁴ The Abbot of Abingdon required a guard of knights to protect his person wherever he went and to defend his monastery. At first he hired mercenaries,⁵ but afterward he supported his knights by grants that were strictly military.⁶ It has been supposed that all grants at first were on the five-hide standard.⁷

¹ “We cannot refuse the conclusion that there was no written document testifying to the creation of military tenure.” (Palgrave, Eng. and Nor., III, 612.)

² Freeman, N. C., V, 368.

³ Ang. Sax. Chron., 1087.

⁴ *Ibid.*, *passim*.

⁵ *Primo quidem mercenariis in hoc utebatur.* (His. Ab., II, 3.)

⁶ *His sopitis incursibus, quum jam Regis edicto in annalibus annotaretur quot de episcopis, quodve de abbatibus ad publicam rem tuendam milites (si forte hinc quid causae propellendae contingeret) exigenterentur, eisdem donativis prius retentis, abbas mansiones possessionum ecclesiae pertinentibus inde delegavit, edicto cuique tenore parendi de suae portionis mansione.* (*Ibid.*)

⁷ The land is marked out not into knights' fees, but into hides, and the number of knights to be furnished by a particular feudatory would be ascertained by inquiring into the number of hides that he held. (Stubbs, C. H., I, 284.)

There is nothing to support this view but the general theory of the continuity of Anglo-Saxon institutions. As soon as there is any data whatever there is obviously no five-hide standard either for tenants-in-chief or subtenants.¹ In 1101, which is only a short time after the enfeoffments already referred to, there were seven hides held of the Abbot of Abingdon for one knight.² When the five-hide unit no longer furnishes a working basis a £20 income is believed to be the standard for rating a knight's fee.³ There is no positive evidence that a knight's fee in the twelfth century was determined by its yearly value any more than by its acreage; although under the peculiar exigencies of the thirteenth century 20 librates were decided upon as the rate for the constraint of knighthood. Mr. Round has pointed out the main difficulties in the way of this theory, but the facts may be stated more fully.

The Pipe Rolls of Henry II, while raising many a question as to how much service a certain tenant owed, do not make any reference to the income of the land as determining the quantum of service due.⁴

When the lord came to sublet his land, it might be expected that he would exact knights from his tenants after a similar rating. But a study of the Scutage shows that he did not do this. It may be well here to bring out some facts as to how the mesne lords regranted the lands which they held of the king. A mesne lord had the same rights of granting his domains to his vassals

¹ The Abbot of St. Albans owed the king the service of 6 knights, and he had himself enfeoffed 6 knights, of whom one held 5 hides and 1 virgate for the service of 1 knight; another 6 hides as a knight's fee; another 7 hides and 1½ virgates as a knight's fee; another 5½ hides as a knight's fee. The number of hides in the other two knights' fees is not given. The abbot had other hides that were not given out as knights' fees. (*Gesta St. Alban.*)

² Bigelow, *Placita*, 78.

³ "The value of the knight's fee must already have been fixed at £20 a year." (*Stubbs, C. H.*, I, 285.) Gneist's idea is still more unsatisfactory in the statement: "The standard adopted . . . was approximately that of the five hides' possession of the Anglo-Saxon period, with a still stricter rating according to the value of the produce." (*Gneist, C. H.*, I, 118.)

⁴ Round, *Feud. Eng.*, 231-235.

as the king had in his domains. Suppose the lord was bound to furnish the king 100 knights; was he sure to hold from his tenants just 100 knights, no more, no less? Not at all. Bracton says: "As the donor may grant more freely than he held, and charge himself and his heirs towards his feoffers, so he may charge his feoffee with more services and other than those which he owes to his feoffer. For he may make out of a Socage a Military tenure, and conversely, if it has been so agreed between himself and his feoffee." And the documents show this usage in early times.

1. A lord might enfeof his lands for more knights than he owed to the king, as is seen from the fact that when a bishoprick was vacant and in the custody of the king, the Treasury received more scutage than when the incumbent paid his *servitium debitum*.¹ The Lord was not allowed to gain too much from the military tenures held of him, as he was allowed to levy Scutage only when the king levied a scutage upon him, and often he paid a fine to obtain his scutage.²

2. A tenant-in-chief might grant out of a knight tenure a holding free from service. In such case the domain retained had to furnish the knight service for the whole.³ The grants in *elemosinam* to churches were of this kind.

3. A lord might grant military fiefs with limitations of his right such as did not exist between the king and himself.⁴

4. The obligations of the under-tenant to his lord might be a perfect counterpart of those of his lord to the king.⁵

These are instances enough to show that mesne lords not only let out their holdings as they pleased, but it was not done upon the basis of hidage or evaluation.⁶ These facts are of importance in their bearing upon the development of the Scutage.

¹The Archbishoprick of Canterbury regularly paid for 60 knights, but when it was in the hands of the king it paid for 89 knights.—*Pipe Roll, 18 Hen. II, 180.*

²Roger de Verli paid 26 l. 8 d., that he might have the Scutage of his men. (21 y Hen II.)

³Ancient Charters, Ed. Round, II, 12, 21.

⁵Sarum char., 193.

⁴Feet of Fines, 7, Ric. I, No. 75.

⁶In the place of a discordant system of national militia and personal vassalage,

The explanation of Mr. Round is full and convincing that

As against the theory that the military obligation of the Anglo-Norman tenant-in-chief was determined by the assessment of his holding, whether in hidage or value, . . . the extent of that obligation was not determined by his holding, but was fixed in relation to, and expressed in terms of, the *constabularia* of ten knights, the unit of the feudal host. And . . . that his military service was in no way derived or developed from that of the Anglo-Saxons, but was arbitrarily fixed by the king, from whom he received his fief, irrespectively both of its size and of all preëxisting arrangements.¹

Matthew of Paris, therefore, while he could not be accepted as a first-hand authority to prove a theory for this period, in speaking of church holdings merely, is more nearly correct than he has been given credit of being, when he says:

Episcopatus autem et abbatias omnes, quae baronias tenebant, et eatenus ab omni servitio seculari libertatem habuerant, sub servitute statuit militari; inrotulans episcopatus et abbatias pro voluntate sua, quot milites sibi et successoribus suis, hostilitatis tempore, voluit a singulis exhiberi.²

The same thing in the main is true of all holdings that were made military. The idea of a fixed *servitium debitum* as applied in England was an advance upon the system in vogue in France. There the great seigneurs were obliged to serve the king, but they could elude the law and make the royal summons ineffective by bringing an insignificant number of combatants. Their *servitium debitum* was not fixed; but 10 knights seems to have been the minimum which a great lord could furnish.³ The Count of Flanders in his treaty with Henry II agreed to furnish the King of France no more than 10 knights to fight the English King.⁴

In the case of the few great tenants-in-chief the service of some number of knights, from 15 to 100, might be assigned without much regard to the extent of their holdings. But in the case of the small tenant-in-chief, who held but one or seventh the whole of the landed property in the country, so far as it was able to bear the necessary burden of heavily armed troops, had to adopt the principle of a standing army based upon the revenue derived from the land. (Gneist, C. H., I, 117.)

¹ Round, Feud. Eng., 261.

³ Luchaire, Manuel, 607.

² Mat. Par., Historia Anglorum, I, 13.

⁴ Liber Niger, 15 *et seq.*

eral knights' fees, some regard had to be paid to the principle which was necessarily the basis of the whole system—that a knight's fee, like the estate of a thegn, must be sufficient to support the dignity and requirements of knighthood. While it is true that the area of a normal fee was not infrequently between 4 and 5 hides, the irregularity was too great to allow of any fixed rule. On the same estate one will find fees consisting of any number from 9 to 22 carucates.¹

There is another feature of the early knight service which is to be carefully noted, because of its bearing upon the later development of this institution. The "feudal system," so called, which was introduced into England, does not mean a system of feudal government, but merely designates the system of land-tenures which came into vogue. Any kind of free tenure, whether by knight service, serjeantry, socage, burgage, frankalmoigne, was considered a feodum with its respective obligations. That by knight service was the tenure *par excellence*; how extensive it was cannot be determined from any evidences before the time of Henry II.² The purpose of granting knights' fees on the part of the king was almost exclusively military; that is, to have a self-supporting army ready for any exigency at his command.³ That the knights might be able to equip themselves with horses and arms in a proper manner, they were given exemptions from gelds and other burdens in the charter of Henry I. The political functions of tenants-in-chief, with the exception of the earls, were scarcely thought of. They were called together from time to time solely for the satisfaction of the monarch, whether to take the oath of allegiance, to lend their advice, or merely for pompous display. The barons did not regard themselves of any consequence, by virtue of their baronies, in the settlement of public business. The ques-

¹ Red Book of Exch., 735.

² That the estimates of 32,000 or 60,000 knights are totally mythical, see Round, Feud. Eng., 289.

³ Terras autem militibus ita distribuit et eorum ordines ita disposuit, ut Angliae regnum—millia militum indesinenter haberet, ac ad imperium regis, prout ratio, poposcerit, celeriter exhiberet. (Ord. Vit., IV, 7.)

tion of a right on the part of the barons to a voice in the great council for this early time does not need to be raised, because there is no trace of any desire on their part to be summoned, as a privilege and honor, before the reign of John, and even then the summons was desired not as an honor so much as the means of mitigating demands for money.¹ So far as we know, there was no such term as "Peer of the Realm" for the Norman period. "Earl" was used as a title; "Baron" was not so used, much less "Knight." The knights of William were necessarily adventurous soldiers,² who were recommended by nothing but their fighting qualities. In other words, there was the closest connection between this form of land-tenure and personal service in the field. If knights did not conduct themselves with bravery, their fiefs might be taken from them and given to others of better courage."³ The writers of the time of the Conqueror hardly refer to knights except in their military connection; thus there are *probatī milites*, "good knights," "brave knights." Yet knighthood was of itself honorable, as the Conqueror at Westminster, in the Pentecostal season, dubbed the atheling, Henry, to *rider* or knight.⁴ But under William Rufus there was an infusion of the chivalric idea, and the knight first appears as belonging to a special class with peculiar ties to others of that class. The expression *probus miles*, afterwards so common, occurs for the first time.⁵ There is a manifest increase in social prestige of knighthood, as is indicated by such expressions as "a wealthy and powerful knight," "the noble

¹ Pike, Const. His. of House of Lords, 92.

² "Ignorant upstarts, driven almost mad by their sudden elevation, wondered how they arrived at such a pitch of power, and thought they might do what they liked." (Ord. Vit. IV, 8.)

³ When the Welsh in 1096 were besieging Pembroke castle, 15 knights, despairing of resistance, made their escape in a boat. Their esquires were more faithful: "ex desperatione scapham intrantes navigio fugam attemptassent, in crastino mane Giraldus eorum armigeris arma dominorum cum feodis dedit, ipsosque statim militari cingulo decoravit." (Gir. Camb. See Freeman, William R., II, 109.)

⁴ Chron. Petrib., 1086.

⁵ Absit a me ut credam quod probus miles violet fidem suam. (Ord. Vit. X, 7.)

knight,"¹ "who ranked high as knights and men of worth,"² these phrases being employed aside from any military connection. In France it became a custom with the early kings to create titles of knighthood purely as an honor. And it came about that as the dignity of an honorary title was great, that those who were already knights by virtue of their lands wished to submit to the formalities of admission into the honorary knighthood. No such usage became common in England before John, but there is a suggestion of it under William II, who, it is said, "gloried in the pomp of his numerous troops. His great delight consisted in conferring the honors of knighthood on account of the worldly splendor with which it surrounded him."³

Under Henry I the employment of the baronage in the work of administration becomes prominent. Many of the older nobility had proved themselves too warlike and fractious, like Robert of Bellesme; these were dispossessed, and men of lower rank were endowed with the estates made vacant.⁴ Many of the *novi homines*, though of humble origin, were ennobled, as nobility depended more upon land-tenure and the king's will than upon the transmission of blood. In this reign undoubtedly feudal tenures were thoroughly established. Yet the aid for the marriage of the king's daughter in 1109 is stated to have been raised not from knights' fees, but by a tax on the hides,⁵ and this "new-fangled form of exaction" naturally seemed unreasonable to the people who were not feudal tenants.⁶ Yet such confusion of the national and feudal ideas is to be constantly met with. The king, according as it serves his purpose, has the vantage ground of both suzerain and sovereign. Among the knights, encouraged perhaps by the spirit of the crusades, chivalrous and courtier-like tendencies are growing⁷ in spite of the stricter discipline introduced by Henry on his accession. Throughout the reigns of the Norman kings the array of

¹ Ord. Vit., VII, 22; *Ibid.*, VIII, 24.

³ *Ibid.*, VIII, 8.

² *Ibid.*, VIII, 25.

⁴ *Ibid.*, XI, 3.

⁵ *Cepit de unaquaque hida Angliae tres solidas.* (Hen. Hunt.)

⁶ Ang.-Sax. Chron., 1110.

⁷ See description of changes in fashion of hair-cutting. (Will. Malm., II, 476.)

knights was the main reliance in military matters. Of the forces which followed William to England no enumeration is made of any except the knights, and wherever infantry are employed in conjunction with the cavalry figures are not given to such an extent that one can estimate the relative numbers generally used.¹ Yet the popular levy, under the old name the *fyrð*, was used by each of the Norman kings; whether to support them against a rebellious baronage, as at the beginning of the reigns of William II and Henry I, or act as a reinforcement of the knight service, as in 1097 William Rufus found he could succeed much better against the Welsh with the aid of the *fyrð*;² or it may have been simply convenient at times to call out the *fyrð* alone, as, in 1094, 20,000 English were ordered to aid the king in Normandy.³ Not counting the anarchical period of Stephen, when the right of private warfare was almost admitted by the king. Such was the legal status of knight tenure at the beginning of the reign of Henry II. In a word, the chief differences from the old régime were:

1. Fixed obligations in tenure.
2. A strengthening of the hereditary principle.
3. A closer connection between land and title or rank.⁴

¹ 1149; Henry came to England with 140 knights and 3,000 infantry. (Will. New., 88.)

² 1119; "*Acies pedestris in qua filii Henrici inerant.*" (Hen. Hunt., 241.)

Henry of Huntingdon speaks in one connection of *princeps militum* and *princeps peditum*. (278.)

³ Ang. Sax. Chron., 1094.

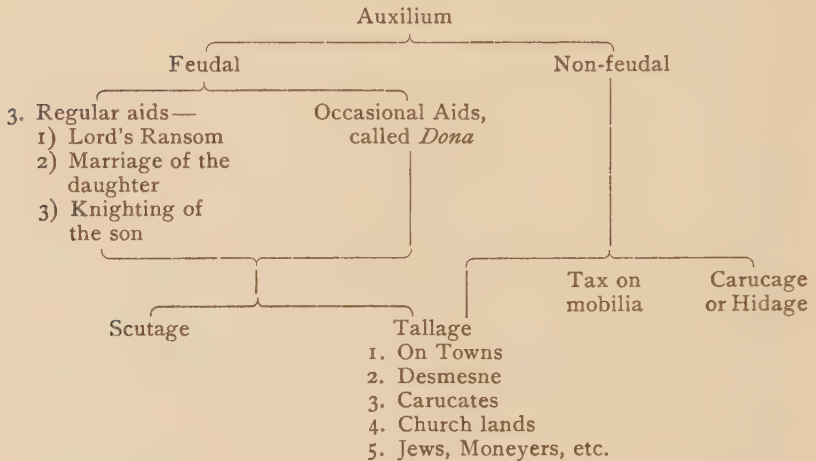
⁴ Pike, Const. His. of House of Lords, chap. v.

CHAPTER I.

ORIGIN AND NATURE OF THE SCUTAGE.

The obligations of knight tenure may be considered as *military* and *non-military*. The military obligations are those of personal service in the field, and Scutage under proper conditions; the non-military features are the three regular feudal aids, namely, for the marriage of the lord's eldest daughter, at the knighting of his eldest son, and for the ransom of his person, besides the so-called feudal incidents, such as wardship, escheat, forfeiture, marriage, which are hardly to be called obligations. A non-military obligation of an irregular kind was the Tallage. This was theoretically a gift to the king or lord, but practically a mulct of an arbitrary nature. The Tallage was generally levied by no regular method of assessment, and it may be considered at times of a feudal, and again of a non-feudal character, as it was levied upon a variety of objects, and often appears in the light of class taxation.

As the subject of feudal taxation is studied in the Rolls the names used are somewhat confused, and it will aid the following discussion to define these terms. *Auxilium*, *donum*, *assisa*, and *scutagium*, particularly in the early records, are used in senses overlapping one another. *Auxilium* is used most broadly for any kind of a grant, whether feudal or non-feudal. *Donum* also is quite a general term, and is applied to a variety of oblations, as the *Donum vicecomitis*, *Donum praelatorum*, *Donum militum*. *Donum*, therefore, may mean either some form of Tallage or Scutage. *Assisa* is an old-fashioned term meaning the same as *Donum*. *Tallagium* is a word seldom used in the Rolls of Henry II, but is much used at a later period. *Scutagium* will be better defined at a later point. The use of these various terms in the official records may be illustrated by the following diagram :



The word Scutage, says Madox, had both a limited and an extensive sense—the one being that of payment in lieu of personal service; the other referring to any aid paid from the knights' fees. Whatever difference there is between the one case and the other in regard to the object for which the money was raised, the mode of levying was the same in either case. In 1168 an aid was raised for the marriage of the King's daughter; *auxilium* is the word commonly employed in the Pipe Roll, but *scutagium* is used here and there, as if interchangeably. The subject of the Scutage, as it appeared under Henry II, will be discussed in reference to origin, nature, occasions, and effect.

It has been supposed that there was no such thing as scutage before the year 1156.¹ But like some other institutions which began under Henry I, and were more fully developed by Henry II, scutage in some form or other existed in the time of Henry I.² How generally it was applied, whether it extended to any but fiefs of the clergy, does not appear; but from the fragmentary references which have been found by Mr. Round, it is evident that such payments were not unusual, and that they were made, as at a later time, "*pro militibus*," that is, in accordance with the

¹ "The term *Scutage*, now [1156] first employed." (Stubbs, C. H., I, 491.)

² Round, Feud. Eng., 268.

number of knights owed by the tenants.¹ The rate of assessment for this early time appears as high as 1½ *l.* per fee, a rate higher than at any time under Henry II, and was not always easy to pay. The assumption that scutage did not exist before Henry II has been based upon the statement of Swereford, the author of the Red Book of the Exchequer. He, however, only states that, while he has inspected but few annals, he has never observed or heard of the assessment of scutage for the time of Henry I.² It is also due this author to state that he modestly claims knowledge from the rolls alone.³

Thus the church of Ely, which owed 40 knights, is given a charter permitting it to pay 60 *l.* scutage instead of 100 *l.*, which it used to pay,³ and the Bishop of Norwich, who owed 40 knights, complains of the difficulty of paying 60 *l.* for his knights.⁴ The occasion, therefore, of a scutage in 1156 should not have created any surprise. John of Salisbury, the only writer who says anything about it, does not refer to it as a new thing.⁵ As the rate was 20 *s.* it was less than had been paid before. The opposition, therefore, of Archbishop Theobald, which is brought up by historians to imply that the tax was a new departure,⁶ may have been not against the Scutage as an institution, but against the particular levy. The mere opposition of an individual churchman, as can be shown in repeated instances, does not prove anything regarding the validity of a constitutional principle. Likewise, it will be made clear that the grumbling of the clergy over the exaction of 1159 was not because they objected to the Scutage itself.

The levy of 1159, which has been commonly called the "Great

¹ "Praedicta ecclesia solebat dare de Scutagio quando Scutagium currebat per terram." Liber Eliensis, Charter, no. xxi. The authenticity of parts of this charter is questioned by Mr. Hubert Hall, *Red Book clii*, but the main fact of an assessment on church fiefs is admitted.

² "Temporibus regis Henrici primi, licet ejusdem paucos inspeximus annales, nec inspeximus vel audivi fuisse scutagia assisa." (Red Book of Exch., 5.)

³ Red Book of Exch., 6.

⁴ Letters: Ed. Giles, 51.

⁵ Verum interim Scutagium remittere non potest, et a quibusdam exactionibus, etc. (Jn Sal., Ep., 128.)

⁶ Stubbs, C. H., I, 492.

Scutage," has occasioned most of the discussion as to the origin of the institution. Kate Norgate finds its suggestion in the device of Ranulf Flambard, who, when 20,000 men of the *fyrð* had been called out in 1093 to follow the King to Normandy, took from each soldier 10 shillings of the money he had with him for personal expenses, and disbanded the army.¹ The explanation is a fanciful one, for it is impossible to say whether the promoters of the Scutage had the single event of 1093 in mind any more than several other things not more remotely suggestive. Stubbs considers that a precedent was found in the ancient *fyrðwite*, the heavy fine by the Anglo-Saxon freeman for neglect of the host.² The *fyrðwite* explanation does not meet the case.³ The fine and forfeiture of the Anglo-Saxons imposed for neglect or desertion of duty⁴ had their exact counterparts under the feudal régime. According to the feudal law, if a military tenant failed in his obligations, he was guilty of a default, and in an extreme case would be liable to forfeiture, which might be mitigated to a fine.⁵ In 1205 John threatened with forfeiture the knights as well as other tenants who failed to come for the defense of the kingdom.⁶ The Scutage did not supplant the fines, for in the 13th century fines for failure to obey the summons went along together with Scutage in a peculiar way. The truth

¹ Norgate, *Anj. Kings*, I, 432. Also, *Palgrave, Eng. and Nor.*, IV, 409.

² Stubbs, *C. H.*, I, 209 and 494.

³ John did the same thing with his barons in 1201. "Cum barones Angliae essent congregati ad Portesmoue ad transfretandum cum rege, rex cepit de quibusdam illorum pecuniam quam expenderent in servicio suo, et permisit eos domum redire. (*Hoved.*, IV, 163.)

⁴ Stubbs, *C. H.*, I, 209.

⁵ 1203. Deinde in comites et barones ocasiones praetendens quod ipsum inter hostes reliquerant in partibus transmarinis, unde castella et terras suas pro eorum defectu amiserat, cepit ab eis septimam partem omnem mobilia suorum. (*Matt. Par.*, 209.)

"Wer nicht erschien, ging, wenn er ohne Erlaubnis des Herrn daheim geblieben, seines Leben verlustig." (*Waitz, D. V. G.*, VIII, 144.)

⁶ Et si quis miles vel serviens vel alius terram tenens inventus fuerit, qui se inde retraxerit, dummodo tanta non fuerit gravatus infirmitate quod illuc venire non possit, ipse et haeredes sui in perpetuum exhaeredabuntur, et feodum suum remanebit domino fundi ad faciendum inde voluntatem suam. (*Sel. Char.*, 282.)

is that an exchange of money payment for any kind of service is a most natural thing, and the principle is exemplified in various countries, times, and conditions. Thus under the later Roman Empire armies were raised by a system of conscriptions upon the possessors of landed property. A great proprietor was bound to furnish several soldiers from his estate or wherever he could get them, while several small proprietors combined to furnish one. This custom naturally conduced the government to replace the impost in men by an impost in money; that is, for the *praebitio tironum* was substituted the *aurum tironicum*. When the state had more need of men than money it exacted the former; when more need of money than men it permitted or prescribed that the proprietors should pay for each man the sum determined.¹ In Germany, as early as the 11th century, it was incumbent on those remaining at home from an expedition to pay a tax.² Indeed, some of the usages so resemble those adopted in England as to render it not unlikely that the English king received some suggestion from the German custom.³ The device of two knights uniting to support a third, as employed by Henry II, is likewise exemplified in Germany at an earlier time.⁴ In France the idea of commutation is worked out in the twelfth and thirteenth centuries, and Philip III found it advisable to make a general application of it.⁵ Particularly in the South of France did the nobles obtain the privilege of paying money equivalent to the number of knights they were bound to furnish, till in the thirteenth century the soldiers who did the service of the host were for the most part soldiers by profession.⁶

¹ Coulange, *La Gaule Romaine*, 293.

² Baltzer, 43, 44. Waitz, *D. V. G.* VI, 30.

³ Praedictus abbas [of Fulda] pecuniam quam *pro Italica expeditione* debuit, illi dimiset. (1048. Dronke, 359. See Baltzer, 43.)

⁴ Compare the statement of the English Chronicler, Robert de Torigni: "Preparavit [1157] maximam expeditionem, ita ut duo milites de tota Anglia tertium parent," with the following: "Si expeditis . . . alio, duo ex illis tercio dent expensas." (Bamberger, *Dienstrecht*. See Baltzer, 43.)

⁵ Langlois, *Le Règne de Philippe III*, 365. Daniel, *Histoire de la Milice française*, I, 80.

⁶ Luchaire, *Manuel*, 197.

In England some forms of payment in lieu of military service, that of payment to a substitute and payment to the crown in reference to the fyrd, are visible in Domesday.¹ The Abbot of Abingdon hired mercenaries before he had made enfeofments.² Even the payments to the crown in place of service were not absorbed in the Scutage, for in the Pipe Roll of 1172 the Scutage was paid by those "*qui nec milites nec denarios miserunt.*"³ Private substitution still went on, as in 1213 scutage was paid by those "*qui nec ierant nec miserunt.*"⁴ It was a general tendency of the times to pay in money all kinds of services due from a vassal to a lord. The Dialogus de Scaccario tells how the Norman kings found it necessary to receive the dues at the treasury in money instead of in kind, so that by the time of Henry I 1 s. was paid as the value of an ox, 4 d. of a sheep, etc.⁵ The same principle was working more slowly in tenures other than military. Instead of a fixed amount of field labor or agricultural produce, a money equivalent was agreeable to both parties.⁶ These facts show that it is unnecessary and even futile to refer back to any particular event or institution as suggesting or forming a precedent for the Scutage. The insular position of England made it less liable to attack than the continental kingdoms, and the theatre of war being often remote, it is not strange that the knight tenants preferred to get rid of their obligations of personal service in whatever ways they could.

The origin of the institution being found to be in the general tendency of the times, the discussion may now be directed to the question, What was the Scutage? It is commonly referred to as a "commutation of personal military service for money."⁷ It

¹ Si quis in expeditionem summonitus non ibat, totam terram suam ergo regem foris faciebat. Quod si quis remanendi habens alium pro se mittere promitteret, et tamen qui mittendus erat remaneret, pro l. solidis quietus dominus ejus. (Customs of Berkshire.)

² See Introduction.

⁵ Dial., I, § 7.

³ Pipe Roll, 18 y. Henry II.

⁶ Vinogradoff, Villeinage in England.

⁴ Walt. Convent., II, 217.

⁷ "The institution, on the occasion of the Toulouse war, of a commutation of

has already been pointed out that the Scutage was not the only form of such pecuniary commutation either before 1159 or after. As early as any record of the matter is found, the Scutage is referred to as paid by tenants-in-chief to the crown, and the accounts in the Pipe Rolls of Henry II are of this kind; but as soon as there are documents to indicate, it is seen that there were similar relations established between the lords and their tenants.¹ Whether the system was extended from the former class to the latter, or from the latter to the former, it would not be safe to say.

An accurate definition of the Scutage is not easy to find, for the word was used in several different relations. The definitions given by historical writers are apt to be incomplete or incorrect. Vincent, the editor of "Lancashire Lay Subsidies," says: "Scutage was a duty or service arising out of baronies and knights' fees, which compelled attendance on the king as chief lord, when he went forth to war; with the alternative of paying in lieu of service for each knight's fee a sum of money varied in amount from time to time as necessity might require." This definition is quite inaccurate in confusing the personal service and the money payment under the same name. A tenant, however, might hold in *escuage*, with obligations to pay scutage without being a knight or ever owing personal service. The statement is incomplete in that it does not allow for the fact that the various aids levied upon knights' fees for knighting the eldest son, marrying the eldest daughter, and ransoming the king's person, were also called Scutage. To be true to all the facts one must make the definition somewhat broad and leave some points to be brought out by a further discussion. The

personal military service, for a money payment termed Scutage." (Tas.-Langmead, 97. Stubbs, C. H., I, 493.)

¹ The Pipe Rolls indirectly give a little testimony on this point. Thus, the church of Canterbury regularly owed the king 60 knights. But after the quarrel with Becket arose, and all the incomes from the lands of Canterbury were taken into the king's hands, the scutage from the archbishoprick in 1166 was that arising from 84¾ knights' fees. Showing that if the archbishop were in his place he would have taken scutage from his tenants, while he in turn paid the king. (Pipe Roll, 11, Hen. II, 109.)

Scutage was a form of tax levied by a pro-rata assessment of the knights' fees of the kingdom. It was collected primarily by the king of all or part of his tenants-in-chief according to the number of knights they were bound to furnish. The tenants-in-chief, having rendered their obligations, either by actual service or a money equivalent in the form of a *donum*, *promissum*, fine, or scutage, might in turn levy a proportionate rate upon their tenants. The double aspect of the case, including, first, the relation between king and tenant-in-chief, and, second, the relation between lord and sub-tenant, is one of the utmost importance; for the one was dependent on the other. On the one hand, the lord could not collect from the sub-tenant until he had satisfied the king; on the other hand, the lord might not be able to pay the king until he had first collected from his men.¹ Nothing is more clear than that it applied to military tenures, principally knights' fees, and to some extent serjeantries, but whatever composition was applicable to the *fyrð* was not scutage.²

There is a question that may be raised concerning the legal status of the Scutage. It hinges on the question whether the king had a right to call his English vassals without their consent into service outside the British islands. Liability to foreign military service has been claimed to be of doubtful legality, although before the thirteenth century the barons never objected. The debate of 1197 has been pointed out as "establishing one of the great principles of English parliamentary right."³ Richard asked the assembled barons for 300 knights to serve in Normandy for a year, or else money sufficient to hire as many for that length of time. The Bishop of Lincoln made opposition on the ground that consent to the demand would be an

¹ Ricardus de Reimes debet 10 £. de praedicto auxilio [1168] et de pluribus exercitibus; sed nondum potuit justiciare tenentes suos. (Pipe R., 30, Henry II, Essex and Hert.)

² "The famous scutage, the acceptance of a money composition for military service alike for the Old-English service of the *fyrð* and for the newer military tenures." (Freeman, N. C., V, 674.)

³ Freeman, N. C., V, 695. Stubbs, C. H., I, 548.

injury to his church, as the church of Lincoln owed service within the bounds of England but not beyond.¹ He referred, therefore, merely to the prescriptive rights of his own church, and not to any general principle of law. Other churches had similar prescriptive rights. Under John such claims became numerous. Thus, 1205, the knights of the Abbot of St. Edmunds claim that neither they nor their fathers ever had to do service outside of England, but paid scutage instead.² How generally such prescriptive rights had grown up among the churches cannot be shown, but it has been believed that the church contingents were "for defense, not defiance."³ It is true, however, that the Bishop of Lincoln could not have meant to refuse the king scutage, as the church of Lincoln had regularly paid it, likewise the Abbot of St. Edmunds paid scutage, and his knights stated their obligations in these terms. Mr. Round expresses the view that here is the explanation of the fact that scutage as an institution first appears peculiar to church fiefs.⁴ The explanation cannot be more than a plausible speculation. Granted that such rights existed, it cannot be told when or how they ever came about. They might have come to be recognized since the institution of the Scutage as well as before. Among lay holders there came to be arranged obligations on the part of sub-tenants to pay scutage and to render no personal service at all. Such relations could spring up only under the influence of the Scutage. Moreover, the claims of the Bishop of Lincoln were not made good, for he and other barons were made to suffer temporary forfeiture as for a default, and afterwards were reinstated by paying a fine. The Abbot of St. Edmunds feared in his dilemma that he also would lose his seisin, as the king did not want his money, but men.⁵ Whatever may be argued concerning the liability of church fees, the same thing would not necessarily be true of lay fees. The oath

¹ Hoved., IV, 40. Magna Vita, 248.

³ Round, Feud. Eng., 533.

² Ric. Devizes, 409.

⁴ Round, *ibid.*

⁵ Abbas (of St. Edmunds) vero in arcto posito, hinc videns libertatem suorum militum periclitari, illinc timens ne amitteret saisinam baronie sue pro defectu servicii

exacted by William the Conqueror seems broad enough to include feudal service *extra regnum*.¹ Yet after 1205, when Normandy was practically lost to the English king, disputes arose between king and nobles. In 1213 some of them claimed they did not owe either service or scutage for a campaign in Poitou.² These claims were not made good during this epoch. In Germany similar claims were made by vassals that they were obliged to serve only within the kingdom or on the expedition to Rome, but, says Schroeder, it is not to be believed that there was any real foundation for these claims.³

To return to the legal aspect of the scutages as established in 1156 and 1159, there is hardly ground for the notion that the scutage of Toulouse was legally permissible when military service could not have been exacted.⁴ The most that can be said is that during the century 1066-1166, "in which the military tenures are really military, as yet there is little law about them. . . . In speaking of knight service before Edward I we have to speak not of a stable, but an unstable institution."⁵ As there was no particular reason in law for establishing the Scutage, the only motives for its systematic adoption will be found to rest

regis, sicut contigerat Episcopo Londonensi et multis baronibus Angliae, statim transfretavit, et . . . in primis nullum potuit facere finem cum rege per denarios. Dicenti ergo se non indigere auro nec argento, sed quattuor milites instanter exigenti, etc. (Ric. Devises, 409.)

¹ "Statuimus ut omnes liberi homines foedere et sacramento affirmant, quod intra et extra universum regnum Angliae Wilhelmo suo domino fideles esse velint; terras et honores illius fidelitate ubique servare cum eo, et contra inimicos, et alienigenas defendere." (Sel. Char., 83.)

² 1213 — "Dissentio orta est inter Johannem regem Angliae et quosdam de proceribus pro Scutagio qui nec ierant nec miserant cum ipso in Pictaviam . . . dicentes se propter in Anglia tenent non debere regem extra regnum sequi ipsum euntem nec scutagio juvare. E contra rege id tanquam debitum exigente eo quod in diebus patris sui necnon et fratris sic fieret." (Walt. Covent., II, 217.)

³ "Nach den Rechtsbüchern beanspruchten die Vassallen, nur innerhalb der Grenzen des Reiches oder bei Romfahrt verwendet zu werden. Dass dieser Anspruch eine reale Grundlage gehabt haben sollte, ist nicht anzunehmen." (Schroeder, 499.)

⁴ "It was scarcely fair to call on the military tenants of England and Normandy to fight as a matter of duty for the aggrandizement of the estates of the Duke of Aquitaine." (Stubbs, C. H., I, 494.)

⁵ Polluck and Maitland, Hist. Eng. Law., I, 231.

upon policy and expediency. These may be set forth in another connection. It has been claimed that the application of the Scutage was contrary to the 11th clause of the charter of Henry I,¹ which reads :

“ Militibus qui per loricas terras suas defendunt, terras dominicarum carucarum suarum quietas ab omnibus gildis, et omni opere, proprio dono concedo,” etc.

To show that this article could not have fairly stood in the way of the Scutage, it may be well to indicate what was meant by demesne lands. Demesne, whether of the king or any other landlord, was that portion of his lands which he did not give out in fiefs. The barons generally divided and sublet their holdings among tenants who would be answerable to them. The tenant-in-chief, who was under obligations directly to the king, was perfectly free to distribute the weight of these obligations among his vassals as he chose. He might (*a*) create the exact number of knights' fees sufficient to discharge his service; (*b*) he might create more than sufficient; (*c*) he might create less than sufficient.² If he created fewer fees than were necessary to discharge his own service due the king, the non-infeudated portion became liable for the remainder. So in the cartae of 1166 one of the inquiries made by Henry II was *quot milites super dominium*. Of course it was not so easy to raise knights from the unenfeoffed lands as from the other kind, as the Abbot of Ramsey, who had made no enfeoffments, afterwards found out. At the same time, barons whose enfeoffed knights were performing all the services that might be claimed of them might reasonably expect to enjoy the full profits of the lands which remained over and above. It was these domain carucates only which were given exemptions. A tax upon knights' fees pure and simple, therefore, could not have been objected to on the ground of the charter of Henry I. But the Scutage in its

¹ “ Its universal application might be hindered at present (1156) by a clause in the charter of Henry I, which exempted the tenants by knight service from all pecuniary charges on their demesne lands.” (Norgate, Anj. Kings., I, 433.)

² Round, Feud. Eng., 240.

inception was not regarded in the light of a land tax, but appears as *pro militibus* or *donum militum*. Its basis was not the knight's fee, but the knight's service, and there is no evidence of any intention of making a tax on fees take the place of or supplement the hidage tax.¹ No objection to the impost could have been raised; none was ever raised on the ground of immunity of taxation.²

The Scutage is commonly spoken of as a "commutation for personal service." Commutation was certainly the basic idea of the institution.³ The payment was made *pro militibus*, that is, so much for every knight owing service. The conventional service of a knight was 40 days in a year. Now the wages of a knight at that time was about 8 pence per day,⁴ and a payment of two marks would be exactly the wages of a knight for 40 days. But Scutage was not the only form of composition. Hiring substitutes privately still went on; sending money to the king continued to some extent in the old way;⁵ fines were paid for default, as in the case of the Bishop of Lincoln and in the offer of the Abbot of St. Edmunds. A rather nice question is, How far did the privilege of commuting service by scutage extend to the subject? Could a lord upon a summons to war say, "I would

¹ "The use of the word 'scutage,' implying an assessment of taxation based on the knight's fee instead of the old rating division of the hide," etc. (Norgate, *Anj. Kings*, I, 432.)

"It marks a turning point in the history of military tenure. It broke down the old exemption of 'fiefs of the hauberk' from pecuniary taxation, in such a way as to make the encroachment upon their privileges assume the shape of a favor." (*Ibid.*, 459.)

² "At the moment (1156) no resentment seems to have been provoked by the measure; its ultimate tendency was not foreseen, the sum actually demanded was not great, and the innovation was condoned on the ground of the king's lawful need and in the belief that it was only an isolated demand." (Norgate, *Anj. Kings*, I, 433.)

³ "It is termed Scutage because such supplying of it appertains to the shield, which is assumed for military service." (Bracton, I, 283.)

⁴ "The two knights who bear the keys have each 8 (d.) by reason of their knight-hood." (*Dial.*, I, 3.) In the customs of Berkshire the rate was 20 s. for 2 months, which is also 8 d. a day.

⁵ In the Roll for 1172 the Scutage accounts read, "de Scutagio Baronum qui nec abierunt cum Regi in Hibernia nec milites nec denarios illuc p' se miserunt." (Pipe R., 18, H. II.)

rather not go to war, but will pay a scutage instead, and will reimburse myself from my tenants, and as they are bound to me for more than I am bound to the king, I can make a little profit"? Such an absolute freedom of choice on the part of the subject, if it became usual, would take from the king a considerable degree of his control of the army. Such a negation of the royal authority could never have been legally permissible. In the Roman Empire the government exacted men or money according as the one or the other was more necessary.¹ In the *Romfahrtsconstitution* of Germany it is expressly declared that the lord is to decide which of his men shall pay the Herrsteuer and which shall perform service;² and in the Dienstrecht of Cöln it is prescribed that the *Ministeriales* must either follow their lord into the field or pay the Herrsteuer, as the lord should determine.³ While in Germany the lords were the unit of the political system, in England the king always remained the real center of authority. It will be found that he did not willingly lose control of the feudal host as a fighting machine. Moreover, the opportunity of a composition was not always given. It was not for every campaign that a scutage was levied at all. So, while there was a scutage for the campaign of Ireland in 1171, there was none for the campaign of Scotland in 1173. It is true, as a rule, that scutages were levied in the case of the larger campaigns, when the entire knighthood of the kingdom was summoned, but not in the case of smaller expeditions, when only a part of the host was brought into the field. Another most important fact to be remembered in considering the Scutage as a whole is, that while the scutage of 1159 was announced probably in advance of the campaign, the method which came to be established was to levy the money some time after. The campaign of Ireland in 1171 was accounted for in the Rolls of the

¹ Coulange, *La Gaule Romaine*, 293.

² "Da war es natürlich von Wichtigkeit, ob der Herr bestimmen konnte, wer von seinen Mannen ausziehen, wer steuern sollte. Die Befugnis, hierüber zu entscheiden, wird dem Herrn gegenüber seinen Ministerialen in der Romfahrtsconstitution ausdrücklich zugesprochen." (Baltzer, *Geschichte des deutschen Kriegswesen*, 44.)

³ Baltzer, *Ibid.*

following year, and from that time such was the customary method of levying the Scutage. So that in 1159 the barons may have had this option presented to them; generally they could not know whether they would be allowed to offer a scutage instead of their service or not. The rate also was not determined till after the defaulters had made themselves derelict, and as it varied under Henry II from 1 mark to 2 marks, and under subsequent kings it might be much more, they could not tell in advance how much they would have to pay.

Furthermore, it is evident that if a choice between personal service and payment of scutage were given, the barons would everyone have chosen to pay the scutage, and the king in taking this money to hire mercenaries would have been the loser thereby. For while at the time of the Toulouse campaign 2 marks may have sufficed to hire a knight for forty days, the wages of a knight seems from about this time to have gone up. In 1198 the abbot of St. Edmunds hired knights at the rate of 3 shillings a day, and the rate became higher in the thirteenth century. In the treaty made by Henry with the Count of Flanders, the count was to furnish 1000 knights for a subsidy of 500 *m.* a year. But in addition to the subsidy to the count, who was not to offer any obstacle to any of his men wishing to serve the king of England, the individual baron was to receive 30 *m.* for his own service and a following of ten knights.¹ While 2 *m.* was about the cost of a knight for forty days under Henry, the rate of scutage was more often 1 mark. It would not have been a paying business for the king to have dismissed a soldier for 1 mark, when he would have to pay 2 marks or more to hire another soldier. The Scutage, therefore, considered as an institution was not in a full sense a commutation of service, although the idea of commutation was at its foundation. The legal obligations of the king's vassals to furnish their quota of knights was not in any way altered. If they neglected the summons they did so at their peril, but if an opportunity was offered for them to pay scutage instead, they were generally glad to do it.

¹ Lib. Nig. 15 *et seq.*

If one tries to discern the reasons which actuated the introduction of this institution, he will have to consider some of the effects at the same time, for causes and effects are necessarily intertwined and act and react one upon another. The reasons assigned by the writers of the time are :

"Considerans longitudinem et difficultatem viae, nolens vexare agrarios milites nec burgensem nec rusticorum multitudinem," etc. (Rob. de Monte, 1159.)

"Mavult enim princeps stipendiarios, quam domesticos bellicis opponere casibus." (Dial., I, 9.)

The Latin writers of the Middle Age are apt to follow the models of Julius Caesar in assigning some reason for every phenomenon, even though it is a purely fanciful one. The writer of the Dialogue, with all his array of facts, is particularly prone to speculative discursions, while at the same time he loses no opportunity for eulogy of the prince. That he is not strictly accurate in regard to the scutage may be seen in the same sentence as that part already quoted, when he says that the scutage is raised for defensive war: "imminente vel insurgente in regnum hostium machinatione decernat rex de singulis feodis militum summam aliquam solvi."¹ The explanations of these writers then, while they are not to be disregarded, are yet to be considered in the light of facts. Robert de Monte is certainly within the bounds of truth in indicating that an expedition to Toulouse would be long and difficult for Englishmen, and would be considered a grievous hardship. To force them to go would have been "both unjust and impolitic, if not absolutely impracticable."² The expression *agrarios milites*, suggests that a number of the knights were more interested as proprietors in looking after their estates than they were in the dubious fortunes of war. Giraldus, in writing about 1170, describes a knight industriously looking after the sowing of his crops.³ It has been observed that the existence of small aliquot parts of knights' fees soon after 1159 is a result of the custom of commuting military

¹Dial., I, 9.

³Gir. Cam., IV, 229.

²Norgate, Anj. Kings, I, 459.

service by payments.¹ The practice of granting fractions of knights' fees had in a measure begun before Henry II. Considered in this light, the Scutage was even a necessary expedient for obtaining the services due from a reluctant knighthood. The church tenants would naturally be less inclined to the pursuit of war than other tenants, and it is not strange that the Scutage in first appearance is applicable to church tenants.

Another explanation given is that the king wished to be independent of his barons and to have mercenaries in their stead.² Freeman designates the tax as "a blow at feudalism;"³ Stubbs speaks of it as the "disarming of the feudal party."⁴ In considering these questions it must be remembered that the Scutage was not merely an expedient for a single year, but a permanent institution. Motives of a temporary nature, which would have been sufficient for making a single experiment, will not account for its permanent adoption and continuance for 200 years. The causes must likewise have been of a permanent nature. It is true that at the beginning of the reign of Henry II the barons, after the license of the previous reign, needed to be restrained. Their political power was curtailed, but it was not intended that they should be less serviceable in the king's army. In most of his campaigns Henry depended on the support of his barons; in the campaign of Toulouse, we are told, they took part, but not with many followers.⁵ The *fyrd* had at times been used by the Norman kings against the obstreperous feudal barons, but henceforth, being recognized by Henry II in the Assize of Arms, it was to act in support of the feudal host, because the latter was not sufficient for all the military needs. None of the Angevin kings rose to the conception of a modern standing army of mercenaries. Mercenary troops were never more than a temporary makeshift. It will be shown how subsequent kings did their best not to break down, but to maintain the feudal service. It

¹ Polluck and Maitland, I, 246.

³ Freeman, N. C., V, 674.

² Taswell-Lang, 97.

⁴ Stubbs, C. H., I, 214.

⁵ "Capitales barones suos cum paucis secum duxit, solidarios vero milites innumeros." (Rob. de Monte, 1159.)

seems on the whole a reasonable belief that, as there were so many knights averse to performing their military service at any particular time, the king would not find it expedient to push them to extremities under penalty for default. The Scutage, therefore, so far from being a means of breaking down the feudal service, was rather a means of maintaining it. It is a noteworthy fact, gathered from the Exchequer roll, that no one of the great lay barons of the kingdom paid the scutage of 1159. Only such of the large baronies as were for the time in custody are accounted for in this levy. It may be questioned from this whether they could have remained at home instead of attending the expedition when summoned. Those who took part in the contribution were the churchmen, the minor tenants-in-chief, and probably the subtenants of the great barons. But the surmise of Polluck and Maitland is not correct, that the king himself took the scutage of the undertenants.¹ The king makes no account of undertenants until after the inquest of 1166, and even then the assessment is made directly upon the lord.

¹ "The king does not give his *capitales barones* an option between going to the war and paying scutage, but he absolves from the duty of personal attendance their undertenants, . . . and instead he takes a scutage." (His. Eng. Law, I, 250, Note 2.)

CHAPTER II.

LEVIES OF SCUTAGE UNDER HENRY II.

There is not enough recorded of the Scutage of Henry I to make any discussion of it for that time possible. The first scutage of Henry II, as has been said, was in the second year, and was upon church tenants only. A levy of a scutage was usually closely associated with the levy of some other kind of aid, both because the scutage alone would not have brought in enough money, and because it was equitable to bring other classes besides the knight tenants under the taxation. Inasmuch as the various tallages have sometimes been confused in the minds of writers with the Scutage, and as it is desirable to show the relative importance of the various scutages and other aids, a method of analysis will be followed for each year.

The special levy for the second year consisted in :

I. An *auxilium* of cities and burgs.

By making a comparison of the tallages of a few towns taken at random, as paid in the second year and fifth year respectively, the nature of this levy will easily be seen :

	Tallage paid 2d year	Tallage paid 5th year
London, - - -	120 <i>l</i> .	1043 <i>l</i> .
Norwich, - - -	50 <i>m</i> .	414 <i>l</i> . 13 <i>s</i> . 4 <i>d</i> .
Burg of Geldford, -	100 <i>s</i> .	10 <i>m</i> .
Southwark, - - -	100 <i>s</i> .	10 <i>m</i> .
Huntington, - - -	8 <i>l</i> .	10 <i>l</i> .
Canterbury, - - -	12 <i>l</i> .	20 <i>l</i> .
Hertford, - - -	100 <i>s</i> .	50 <i>m</i> .
Colecester, - - -	12 <i>l</i> . 18 <i>s</i> . 8 <i>d</i> .	-----
Bedford, - - -	10 <i>m</i> .	40 <i>m</i> .
York, - - -	40 <i>l</i> .	133 <i>l</i> . 6 <i>s</i> . 8 <i>d</i> .
Lincoln, - - -	40 <i>l</i> .	-----

Although the sums in the aggregate of the fifth year were

much larger, some towns paid more in the second year, and some which paid in the second year did not pay anything in the fifth year. Stafford and Hertford paid a second aid, *de alio auxil.*, and Salisbury paid a *donum* besides an *auxilium*. It is obvious that the towns were assessed not on any principle of area, wealth, or population, but arbitrarily by the king or his officers. The tallage of cities and burgs for this year amounted to about 450 *l.*

II. An *auxilium* or *donum* of the counties.

The kingdom was not yet reorganized, and certain of the counties were not accounted for in the rolls at all: Northumberland, Chester, Rutland, Carlisle. Most of the counties are accounted for in this aid; but Norfolk, Suffolk, Surry, Buckingham, Bedford, and Stafford are not. The accounts are in some cases confused, as the returns from murder fines and pleas and the *donum* are given in a lump sum.¹ Where the amounts of the *donum* or *auxilium* of the various counties can be clearly made out they are reduceable to a round number of marks, *e. g.*, 40 *m.*, 60 *m.*, 80 *m.*, 100 *m.*, 120 *m.*, 200 *m.*, 400 *m.*, with no apparent basis of assessment. Making some allowance for a little confusion in the method of recording the accounts, the sum total of the *auxilium comitatus* was not much over 1500 *l.*

III. A *scutagium militum*.

The rate was 20 *s.* per knight. A table will show how fully it was carried out:

		Knights due	Money paid 2d year	Money paid 5th year
Bishop of London,	- -	20	20 <i>l.</i>	
Bishop of Lincoln,	-	60	54 <i>l.</i>	80 <i>l.</i>
Archbishop of York,	- -	20 (7)	7 <i>l.</i>	9 <i>l.</i> 6 <i>s.</i> 8 <i>d.</i>
Bishop of Durham,	-	10	10 <i>l.</i>	20 <i>m.</i>
Bishop of Chester,	- -	15	15 <i>l.</i>	30 <i>m.</i>
Bishop of Bath,	- -	20	20 <i>l.</i>	40 <i>m.</i>
Bishop of Exeter,	- -	17 ½ (15 ½)	15 <i>l.</i> 10 <i>s.</i>	23 <i>l.</i> 6 <i>s.</i> 8 <i>d.</i>
Bishop of Hertford,	-	15	15 <i>l.</i>	
Bishop of Winchester,	-	60	56 <i>l.</i> 10 <i>s.</i>	80 <i>l.</i>
Bishop of Salisbury,	-	32	30 <i>l.</i>	

¹ Et Id. vic' redd' Comp' de 122 l. 13 s. 4 d. de murdr' et plac p Henr' de Essex et de dono Comitatus. (2, Hen. II, 47.)

		Knights due	Money paid 2d year	Money paid 5th year
Bishop of Chicester,	-	4	40s.	
Bishop of Worcester,	-	50	40 <i>l.</i> 10s.	
Abbot of Chertsey,	- -	3	40s.	4 <i>l.</i>
Abbot of Westminster,	-	15 (?)	7 <i>l.</i>	
Abbot of Ramsey,	- -	4	4 <i>l.</i>	4 <i>m.</i>
Abbot of St. Albans,	-	6	116s.	12 <i>m.</i>
Abbot of Glastonbury,	-	40	20 <i>l.</i> 10s. (incomplete)	
Abbot of Michelney,	-	1	20s.	
Abbot of Cerne,	- -	2 [3]	60s.	6 <i>m.</i>
Abbot of St. Edward,	-		10 <i>l.</i>	
Abbot of Sherburne,	- -	2	40s.	4 <i>m.</i>
Abbot of Middleton,	-	2	20s.	
Abbot of Abingdon,	- -	30	23 <i>l.</i> 10s.	40 <i>l.</i>
Abbot of Burc,	- -	60	60 <i>l.</i>	80 <i>l.</i>
Abbot of Tavistock,	- -	15 (?)	10 <i>l.</i> 10s.	
Abbot of Hyde,	- -	20	20 <i>l.</i>	40 <i>m.</i>
Abbot of Malmesbury,	-	3	60s.	
Abbess of Wilton,	-	.5	5 <i>l.</i>	
Abbot of Evesham,	- -	5	100s.	10 <i>m.</i>
Abbot of Pershore,	-	2	40s.	
Abbot of St. Augustine,	-	15	15 <i>l.</i>	20 <i>l.</i>
Abbot of Abbotsbury,	-	1	10s.	2 <i>m.</i>
Abbot of Winchcombe,	-	2	40s.	4 <i>m.</i>
Chapel of Bosham,	-	7½	7 <i>l.</i> 10s.	

Thus most of the churchmen paid in full according to the amount of service due; but in some cases they paid and were acquitted for a less amount, *e. g.*, Bishop of Lincoln, Bishop of Winchester, the Bishop of Salisbury, the Bishop of Worcester, the Abbot of Chertsey, etc. It may be that the exact amount of service due in each case had not always been insisted on, and that the king did not find it prudent at that time to be too rigid. There could hardly have been any different apportionment made between the second year and the fifth year. Perhaps the opposition of Archbishop Theobald made some difference, for Canterbury is not charged for any scutage; neither were the bishopricks of Ely, Norwich, and the houses of St. Edmundsbury, Coventry, Shaftesbury, St. Benedict. It is hard to see any reason for these exemptions, as most of them cer-

tainly were not in the king's hand at the time, and paid at the next scutage. The entire amount of the scutage for the second year was less than 500*l.* The entire *servitium debitum* from church fiefs amounted to 784.¹

SCUTAGES OF THE FIFTH, SEVENTH, AND EIGHT YEARS.

The scutage of 1159 is commonly given as the beginning of the levy upon lay tenures. Yet in the Pipe Roll of the third year, for the single county of Northamptonshire, there is record of a scutage of the Abbot of Abbotsbury and the knights of the county for the Welsh war of that year. This is in fact the first record at hand of a lay scutage, although it was by no means a general levy. It is noteworthy that in the Pipe Roll for the fifth year the word *scutagium* does not appear but a few times. The entire special levy for the year is under the name *donum*. It has already been pointed out that *donum* may mean aid, scutage, or tallage.² It was believed by Alexander de Swereford that the entire *donum* for the year was some kind of a scutage, and this view has been perpetuated by Madox, Kate Norgate, and others. It is plain, however, that the items include several kinds of *donum*, *e. g.*:

"Id vic Redd' Comp' de 200 m. de dono Episcopi London."

"Id vic Redd' Comp' de 40 m. de dono militum ejusdem episcopi."³

I. The *donum militum*, or scutage of 2 *m.* per knight's fee: paid alike by clerical and lay tenants.

II. A *donum*: arbitrarily fixed on clerical tenants-in-chief, irrespective of their fees, and whether they paid *donum militum* or not.

III. A *donum*: arbitrarily fixed on some of the non-military religious houses.

IV. A *donum*: arbitrarily fixed on towns. These amounts were much larger than those of the second year, as has been shown before.

V. A *donum* from some of the sheriffs:

¹Round, Feud. Eng., 282.

³R. 5, H. II, 4.

²Madox, His. Exch., I, 625.

This did not correspond in amount to the *auxilium comitatus* of the former year. For example :

	Donum of sheriffs	Aux. comitatus
Devonshire, - - - -	100 <i>m</i> .	122 <i>l</i> . 13 <i>s</i> . 3 <i>d</i> .
Dorsetshire, - - - -	20 <i>l</i> .	54 <i>l</i> . 2 <i>s</i> .
Nottinghamshire, - - - -	10 <i>m</i> .	80 <i>l</i> .
Somerset, - - - -	20 <i>m</i> .	100 <i>m</i> .
Yorkshire, - - - -	50 <i>m</i> .	260 <i>l</i> . 13 <i>s</i> . 4 <i>d</i> .

VI. A *donum* from the Jews.

VII. A *donum* from the moneyers.¹

The entire amount of the various *dona* is calculated to be about 12000 *l*., while the scutage was about 2440 *l*. The special *donum* from the clergy produced 3130 *l*., while the regular scutage of the clergy was only 1101 *m*. Thus it is plain that the scutage was only a small part of this year's special levy. We are told that the campaign of Toulouse was large and expensive,² and it took all of these devices and perhaps more to pay a large army of mercenaries.³ The churchmen complained bitterly of the extortion as being a sheer robbery, contrary to the ancient customs and exposing them to the arbitrary will of the king's officers.⁴ A large share of the blame for the Scutage is laid at the door of the Chancellor.⁵ But if Becket is to be given credit for any originality in this matter, it is in regard to taking from the clergy a special *donum*, such as had before been taken from towns, counties, and sheriffs.⁶ It is also noticeable that both the

¹ Round, Feud. Eng., 276.

² "Habuit secum viginti millia Brabancenorum qui fideliter servierunt illi, et non sine magna mercede, quam eis dedit." (Hoved., II, 47, 65.)

³ (1159) "Rex . . . magno congregato exercitu obsedit Tolosam; et quamvis ibi diu sedisset, et thesauros suos in variis expensis exinanisset," etc. (Hoved., I, 217.)

⁴ "Tolosam bello aggressurus, omnibus contra antiquum morem et debitam libertatem indixit ecclesiis, ut pro arbitrio ejus satraporum suorum conferrent in census. Nec permisit ut ecclesiae saltem coaequantur in hac contributione, vel magis exactione tam indebita." (Sal. Ep., 145.)

⁵ Norgate, Anj. Kings, I, 461.

⁶ "Ille quidem gladius quem in sancte matris ecclesiae viscera vestra paulo ante manus immerserat cum ad trajiciendum in Tolosam exercitum tot ipsam marcarum millibus aporiastis." (Gill. Foliot, Ep., 194.)

scutages of 1156 and 1159 were paid with great promptness, leaving few arrears for the rolls of the following years, whereas the tallages of towns and counties were quite slow in payment.

The Red Book of the Exchequer states that the levy of 1159 was for an army of Wales, and that the contributions of 1161 and 1162 were 'for the army of Toulouse.'¹ There is no statement in the Pipe Rolls upon this point, but the venerable authority of Swereford has been displaced by collateral evidence that the *donum* in question was for the Toulouse campaign.² Yet there is some justification of the error. The normal practice of the Exchequer for nearly the whole period of the scutages was to record them the year following their assessment. Swereford states this as a general principle, and inasmuch as there was fighting against Wales in 1157, 1158, and 1159, he not unnaturally assigned one of these campaigns as the object of the levy. There is still something further to be learned from his very error. The chronology for the campaign of 1159 was as follows:

March 22, Henry advertises his intended expedition.

July 1-3, muster of forces at Agen.

September 22, Henry breaks up the siege.³

Now it would not have been possible for the barons at the close of the campaign to have gotten their certificates from the marshal, to have made their levies upon the subtenants, and to have paid the money at the Exchequer by the Michaelmas session, in the way that was usual at a later time.⁴ The contribution of this year, therefore, must have been an oblation made in advance of the campaign, and so was not a scutage in the accepted sense of the term, and was very properly called a *donum*.⁵

The next levy of this kind was in 1161, recorded in the Rolls of seventh year:

I. A *donum* of the towns.

¹ Red Book, 6 and 7.

³ Eyton, Eyres, 44-47.

² Henry of Winchester "dederat enim paulo ante quingentas marcas regi ad expeditionem Tholosanam." (Gir. Cam., III, 357.)

⁴ Hubert Hall, Red Book, clxxxv.

⁵ *Ibid.*, cxcii.

A few examples will show the irregularity of these tallages:

	2d year	5th year	7th year
London, - - - -	120 <i>l</i> .	1043 <i>l</i> .	
Norwich, - - - -	50 <i>m</i> .	414 <i>l</i> . 13 <i>s</i> . 4 <i>d</i> .	200 <i>l</i> .
Geldford, - - - -	100 <i>s</i> .	10 <i>m</i> .	10 <i>m</i> .
Southwark, - - - -	100 <i>s</i> .	10 <i>m</i> .	100 <i>s</i> .
Huntingdon, - - - -	8 <i>l</i> .	10 <i>l</i> .	10 <i>l</i> .
Canterbury, - - - -	12 <i>l</i> .	20 <i>l</i> .	20 <i>l</i> .
Hertford, - - - -	100 <i>s</i> .	50 <i>m</i> .	20 <i>m</i> .
Colecester, - - - -	12 <i>l</i> . 18 <i>s</i> . 8 <i>d</i> .		
Bedford, - - - -	10 <i>m</i> .	40 <i>m</i> .	40 <i>m</i> .
York, - - - -	40 <i>l</i> .	200 <i>m</i> .	200 <i>m</i> .
Lincoln, - - - -	40 <i>l</i> .		
Chicester, - - - -		5 <i>m</i> .	5 <i>m</i> .
Gloucester, - - - -	15 <i>l</i> .	50 <i>m</i> .	100 <i>m</i> .
Exeter, - - - -	20 <i>l</i> .	263 <i>l</i> . 13 <i>s</i> . 4 <i>d</i> .	80 <i>l</i> .
Northampton, - - - -	40 <i>m</i> .	200 <i>m</i> .	160 <i>m</i> .

II. A *donum* from the Moneyers.

III. A scutage of 2 *m*. per knight's fee.

The records of this scutage show a more careful account of the smaller tenants-in-chief. In the former year the sheriff generally rendered the scutage of the tenants of the county *en bloc*, and this method was still continued in some cases, *e. g.*, a sheriff renders account of 106*l*. for the knights of Essex and Hertford.¹ But in Norfolk and Suffolk, besides four great barons, like the Bishop of Norwich (40 knights) and the Abbot of St. Edmunds (40 knights), who together owed the service of 125 knights, there were some 54 persons, most of whom owed service for one or one-half fee, owing service in the aggregate for 91 knights. The number of small knight tenants was at this time quite large and was destined to increase. The sum total of the scutage is about 2244 *l*.

It was customary to levy a scutage in reference to some definite military campaign for which a general summons had been issued. As to the scutage of 1161, there is no direct evidence in the Rolls for what object it was taken. The Red Book states that this was the scutage of Toulouse.² Stubbs suggests that the

¹ R. 7., H. II, 67.

² Red Book, 7.

money was raised to defray debts incurred in the Toulouse campaign.¹ This would have been contrary to all customary usage. If it was done, the levy must have been either (1) on all tenants-in-chief; (2) on the same contributors as in 1159; or (3) on a new set of contributors.² The assessment was made, however, in a way which shows no connection with the former one. It seems to be true that after a brief peace following the campaign of Toulouse,³ Henry was at war again with Louis.⁴ It is evident from the Pipe Roll that there was a gathering of forces at Pevensey, as each of the tenants owing scutage in the county of Sussex is recorded as being acquitted for liveries to the knights of Pevensey.⁵

The next levy to be considered is that of the eighth year, 1162. It consisted in:

I. A *Danegeld*. The last imposition of this tax, from which churches and religious houses were "pardoned."

II. A *donum* or *auxilium* upon towns. *E. g.*:

	2d year	5th year	7th year	8th year
Winchester, -		113 <i>l</i> .		25 <i>l</i> .
Norwich, - -	50 <i>m</i> .	414 <i>l</i> . 13 <i>s</i> . 4 <i>d</i> .	200 <i>l</i> .	30 <i>l</i> .
Chichester, - -		5 <i>m</i> .	5 <i>m</i> .	
Colechester, -	12 <i>l</i> . 18 <i>s</i> . 8 <i>d</i> .			20 <i>l</i> .
Exeter, - -	20 <i>l</i> .	263 <i>l</i> . 13 <i>s</i> . 4 <i>d</i> .	100 <i>l</i> .	20 <i>l</i> .
Northampton, -	40 <i>m</i> .	200 <i>m</i> .	160 <i>m</i> .	10 <i>l</i> .
Southwark, - -	100 <i>s</i> .	10 <i>m</i> .	100 <i>s</i> .	5 <i>l</i> .
London, -	120 <i>l</i> .	1043 <i>l</i> .		
Geldford, - -	100 <i>s</i> .	10 <i>m</i> .	10 <i>m</i> .	100 <i>s</i> .
Huntingdon, -	8 <i>l</i> .	10 <i>l</i> .	10 <i>l</i> .	8 <i>l</i> .
Canterbury, -	12 <i>l</i> .	20 <i>l</i> .	20 <i>l</i> .	12 <i>l</i> .
Hertford, -	100 <i>s</i> .	50 <i>m</i> .	20 <i>m</i> .	10 <i>l</i> .
Bedford, - -	10 <i>m</i> .	40 <i>m</i> .	40 <i>m</i> .	
York, - -	40 <i>l</i> .	200 <i>m</i> .	200 <i>m</i> .	650 <i>l</i> .
Lincoln, - -	40 <i>l</i> .			
Gloucester, -	15 <i>l</i> .	50 <i>m</i> .	100 <i>m</i> .	15 <i>l</i> .

¹ Stubbs, Preface Ben. Pet., xcv.

² Round, Feud. Eng., 282.

³ "Ab expeditione Tolosa reversus, brevi quievit." (Will. New., 130.)

⁴ Eyton, Eyres, 54.

⁵ "In liberatione militum de Pevensel . . . et quietus est." (Roll 7, H. II, 13.)

It is interesting to see how in many cases former assessments were repeated in the tallages of the towns. But a very little observation of these tables will show that none of these *dona*, either of towns or counties, could have been a hidage or carucage, as Stubbs says,¹ for there is too great irregularity in the assessments.

The Dialogue describes the method of assessment of the *dona* of cities and burgs as being made by the justices in one of two ways: first, *per capita*, that is, not necessarily a poll tax, but rather a family or household tax, according to which arrangement all payers paid equally; second, some fixed amount being agreed between the justices and the citizens. In the former case the king's officers took control of the levy, in the latter case the citizens make up the sum in whatever way they saw fit.² The different methods of assessments are discernible in the variety of figures presented.

III. A *scutage* of 1 *m.* per knight's fee. The Roll gives evidence of greater care in keeping the individual accounts of the minor tenants-in-chief. The greater number of tenants hold for 1 to 5 knights. The levy did not extend to as many knights as in 1159 or 1161, for the amount was about 975 *l.*, while the *donum* of the towns was 840 *l.* The object of this levy is not stated in the returns. The Red Book gives this also as for the army of Toulouse.³ The explanation of Mr. Hall is a good one, that the expedition of 1159 as well as succeeding campaigns in France were part and parcel of an intermittent forty-years' war.⁴ Another expedition against the King of France in the eighth year accounts for the *scutage*.⁵ But the further theory, advanced by

¹ "This sort of impost (*i. e.*, Hidage or Carucage) had been levied during Henry II's reign, generally under the name *donum*, as supplementary to the *Scutage*." (Stubbs, Pref. Rog. Hoved., IV.)

² Dial. de Scac., II, 13.

³ Red Book, 7.

⁴ "Bellum quoque Tolosanum quod . . . per annos quadringenta vires multorum attriverat populorum, eodem tempore (1196), Deo propitio, expiravit." (Will. New., 491. See Red Book, clxxiii.)

⁵ "Sequent' anno, qui fuit regni ejus octavus, ira inter ipsum et regem Francorum tempore ejusdem expeditionis concepta, causis ingravescentibus tandem quasi parta erupit. Denique immensis hinc inde exercitibus congregatis," etc. (Will. New., 130.)

Mr. Hall, that there were but two campaigns represented by the several payments of 1159, 1161, 1162, that those who paid in 1159 made simply a prepayment, while the regular scutages were paid in 1161 and 1162, meets with some difficulty. There were some tenants, such as the Bishop of Norwich and the Abbot of St. Augustine, who paid in each of the three years. As the rate was 1 *m.* in the eighth year, those who paid in the seventh and eighth years instead of in the fifth and seventh would have paid less than their share. It seems, therefore, that there must have been three distinct campaigns to correspond to these levies.

SCUTAGE OF THE ELEVENTH YEAR.

The next levy was in the eleventh year, 1165. It is the most curious of any of the various scutages and throws light on some features of knight tenure. The analysis may be made as follows :

I. A *donum* from some of the towns, *e. g.* :

York,	-	-	-	200 <i>l.</i>	"de exercitu Walliae"
London,	-	-	-	500 <i>m.</i>	" "
Hertford,	-	-	-	100 <i>s.</i>	" "
Northampton,	-	-	-	100 <i>m.</i>	" "
Southwark,	-	-	-	10 <i>m.</i>	" "
Geldford,	-	-	-	8 <i>m.</i>	" "
Bedford,	-	-	-	20 <i>m.</i>	" "
Gloucester,	-	-	-	40 <i>l.</i>	" "
Tedford,	-	-	-	66 <i>s.</i> 8 <i>d.</i>	" "

II. Certain mysterious sums which have been a puzzle,¹ but are found to be multiples of 15*s.* 3*d.*,² *e. g.*, 7*l.* 12*s.* 6*d.*, 15*l.* 5*s.*, 45*s.* 9*d.*, 38*l.* 2*s.* 6*d.*, 114*m.* 5*s.*, 152*l.* 10*s.*, 228*l.* 15*s.*, etc. Sometimes these amounts are designated "*de exercitu Wallie*," but they are not a scutage, nor do they bear any relation to the amount of knight service due ; sometimes they are stated to be "*de promissione Servientium Wallie*."³ They are plainly a *donum* independent of scutage for :

¹ "The sums paid *de promissione sua* hath made me hesitate. Perhaps it may not be much amiss to say that this payment when made by laity was a *Donum*, and when made by ecclesiastical persons was a *Donum Praelatorum*." (Madox, *His. Exch.*, I, 582.)

² Round, *Feud. Eng.*, 282.

³ R. II, 74.

	Knights due	Scutage 11th year	De promissione 11th year
Bishop of Bath, - -	20		66 <i>l.</i> 5 <i>s.</i>
Bishop of Lincoln, - -	60		152 <i>l.</i> 10 <i>s.</i>
Abbot of Gloucester, -			38 <i>l.</i> 2 <i>s.</i> 6 <i>d.</i>
Earl of Gloucester, - -			228 <i>l.</i> 15 <i>s.</i>
Bishop of London, - -	20	13 <i>l.</i> 6 <i>s.</i> 8 <i>d.</i>	114 <i>m.</i> 5 <i>s.</i>
Bishop of Salisbury, - -	32		76 <i>l.</i> 5 <i>s.</i>
Abbot of Malmesbury, -	3		30 <i>l.</i> 10 <i>s.</i>
Earl of Warwick, - -	-		76 <i>l.</i> 5 <i>s.</i>

The 15*s.* 3*d.* was plainly the unit of pay for a serjeant, and the only possible term of service for such pay would be one-half a year, or 183 days at 1*d.* per day. These sums were paid by a great number of persons, both great tenants and small tenants, lay and clerical. Thus the magnates paid for 50, 100, 150, 200, or 300 serjeants, while small tenants, some owing knight service and others not, paid for a number of from 1 to 5. These accounts are given intermixed with the scutages, but the same persons did not pay for both knights and serjeants, except in the case of the Bishop of London.¹ The amount thus recorded is about 2676*l.*, which is larger than any single kind of contribution thus far considered, except the *donum* of ecclesiastics in 1159. There was probably no particular basis of assessment to determine for how many serjeants one should pay any more than in the case of the other *dona* that have been discussed. The Bishop of Chichester who owed only 2 knights paid for 200 *servientes*. While these oblations were theoretically voluntary contributions to the King, if a tenant did not do what was expected he might be amerced. The Abbot of St. Edmunds made no proffer of scutage in the eighth year nor of the *promissum* in the eleventh year, and in the latter year he is entered "in Misericordia 200 *m.*"

III. Other sums, designated *de exercitu*, or *de militibus*, which prove to be a scutage of 1 *m.* per fee, although this scutage is

¹ "Epis' Lond' redd' Comp' de 13*l.* 6*s.* 8*d.* de Servicio militum.

Id' redd' Comp' de 114 *m.* 5*s.* de promissione Servientium Walie." (R. 11, H. 11, 19.)

not acknowledged in the Red Book.¹ Those who paid for knights did not as a rule pay for serjeants. Thus the Bishop of Durham rendered 7 *l.* 6 *s.* 8 *d.* for his ten knights, while the Bishop of Chichester with two knights paid 76 *l.* 5 *s.* for 100 serjeants. The scutage of this year throws light upon a certain question of events. From passages in the Pipe Roll it is plain that the service exacted in 1165 was more than that of the usual forty days, *e. g.*:

"Comes Hugo redd' Comp' de 227 *l.* et 10 *s.* de Militibus et Servientibus exercitus Walie de quarta anni." (R. 11, p. 7.)

"Et 5 militibus euntibus in exercitu, 13 *l.* 6 *s.* 8 *d.*" (R. 11, p. 7.)

For five knights the above amount represents a service of 80 days at the usual rate, 8 *d.* per day. Indeed, there is evidence of two separate armies for Wales and two separate scutages, *e. g.*:

"Id' vic' redd' Comp' de 8 *m.* de secundo exercitu." (R. 11, p. 25.)

"Ric de Wivill' redd' Comp' de 1 *m.* de ii summonicionibus exercitus." (R. 11, pp. 52 and 62.)

Richard held half a fee, paying 1 *m.* in the fourteenth year."²

"Id' redd' Comp' de 113 *l.* de milit' de Archiepato (Canterbury) de ii exercitibus." (R. 11, p. 109.)

113 *l.* is the amount that the 84¾ knights belonging to the Archbishop of Canterbury would render by paying the scutage of 1 *m.* twice.

These facts are in accord with the testimony of *Brut y Tywys*, who says that Henry first "moved an army with extreme haste and came to Rhuddlam, and proposed to erect a castle there, and stayed there three nights. After that he returned into England and collected a vast army."³

As neither the Ann. Cambr. nor Gerald makes any mention of the earlier Ruddlam expedition, the testimony of Brut has been thrown out by Kate Norgate.³ As the earlier expedition was

¹ "Quod quidem auxilium (of 1165) in numero scutagiorum nolui apponere, quoniam probata summa auxilii propter hoc non probatur numerus militum vel serjan-torum." (Red Book of Exch., 9.)

² R. 14, p. 90.

³ See Norgate, Anj. Kings, II, 180, note.

hasty and not attended by a general summons, so the minor scutage of the year did not amount to much, as very few made any such payment. While the *donum* for serjeants was on a basis of six months' service for each serjeant "promised," the actual campaign was not over eighty days or three months, as may be inferred from some passages, and may be demonstrated from the following:

"Comes Ric' redd' Comp' de 76l. 5 s. In pardon' pro breve Regis eidem comiti, 76.l 5 s. propter 20 milites et 40 servientes quos duxit in exercitu cum Rege." (R. 11, p. 3.)

The only explanation for this item is on the ground that the knights and serjeants did actual service for three months.¹

Another matter of interest, indicated in the Rolls, is the importance attached to the serjeants in the army of this year. This was before the Assize of Arms of 1181, but the "promise of serjeants" was used not merely as a money-making device. The passages quoted show that whoever conducted knights or serjeants in the campaign was exempt from either payment. It is noticeable in the Pipe Rolls that in whatever counties there happens to be an aggregation of soldiers, those counties are immediately called upon to some extent for the necessary expenses of those soldiers. So where the king maintained castles, a part of the revenue due from the Sheriff was paid not directly into the Exchequer, but was accounted "*in operatione castellarum*,"² or in liveries for the garrisons, "*in liberatione castellanorum*."³ In 1161 the scutage money from Sussex was not turned into the treasury, but was laid out in "liveries" of the knights assembled at Pevensey.⁴ In 1163 Shropshire,⁵ Hertfordshire,⁶ Gloucestershire,⁷ Worcestershire⁸ paid liveries toward military

¹ 1 knight = 8 serjeants. 76 l. 5 s. is the wages of 100 serjeants for six months or 200 serjeants for three months. The actual number of serjeants was 40. 200 — 40 = 160. 160 serjeants = 20 knights, according to the hypothesis.

² R. 8, pp. 39, 49, 50, 53, etc.

⁴ R. 7, p. 13.

⁶ R. 9, p. 7.

³ R. 8, p. 20.

⁵ R. 9, p. 3.

⁷ "In Liberatione militum et servientum in exercitu Walie p' Willm de Bellocampo, 70 l. 9 s. 1 d." (R. 9, p. 9.)

⁸ "In Munitione portata in Wal, 39 l. 3 s. 4 d." (R. 9, p. 4.)

operations in Wales. In 1165 the sheriff or other party is accredited with paying liveries to a large number of serjeants, *e.g.*:

"Et 300 servientibus 5 l. 7 s. 5 d. et 60 servientibus apud Surwardin 6 l." (R. 11, p. 90.) Et item 300 servientibus, p' Pasca 69 l. 18 s. 7 d." (*Ibid.*) "Et Walto de Bellocampo 13 l. 10 s. 10 d. ad lib' servientum de Bergeveni." (R. 11, p. 101.)

The liveries in these cases were paid for serjeants, and not for "knights and serjeants," as in 1163. It had been found by experience as early as William Rufus that infantry was more serviceable than cavalry for operations in Wales.¹ The use of serjeants as an integral part of the military force in the kingdom was to assume a greater relative importance. The obligations to such service were defined in the Assize of Arms, 1181. The relative value of a knight and a serjeant, which in 1165 was considered to be in the ratio of 8 to 1, was finally that of 2 to 1. The amount of the scutage for this year would be difficult to compute with any confidence, because the accounts in the Rolls are generally not designated. But it would be safe to say that the scutage was not as large as the *donum* for serjeants. The principal thing to be remembered in this connection is that the *donum* of serjeants was not a scutage or anything similar in principle.

IV. A few other items of revenue, which are not of much consequence in themselves, but which further illustrate the principle that the occasion of an expedition might call for most any kind of levy. While not to the same extent as in 1159, a few of the moneyers paid a tallage, and in one instance the money is stated specifically to be for the sake of the army.²

	11th year	5th year
Moneyers of York, - - -	80 <i>m.</i>	
Moneyers of London, - - -	40 <i>m.</i>	62 <i>m.</i>
Moneyers of Northampton, - -	100 <i>s.</i>	
Moneyers of Norwich, - - -	40 <i>s.</i>	50 <i>m.</i>

¹ Freeman, William Rufus, II, 110.

² Monetarii Lund' redd' Comp' de 40 m. de Assisa ejusdem exercitus. (R. 11, p.

A singular item occurs in which the socmen of a certain Earl pay a *donum*.¹

AID FOR THE MARRIAGE OF THE DAUGHTER.

The *levy of 1168* was the aid to marry the king's daughter. The impression has been given by certain writers that this aid as well as others of a similar kind was raised purely by an assessment upon knights' fees. Says Kate Norgate, "the aid itself (of 1168) was a strictly feudal impost, assessed at one mark on every knight's fee."² Stubbs tells only a part of the facts when he takes no notice of any part of this levy but the one mark on the knight's fee.³ It will be found, however, that the aid was made up of several different kinds of levy, very much as in the other years cited.

I. *Aid from Cities, Burgs, and Villes*.—The aggregate sum taken from the towns was larger than ever before. Not only were the items from the towns separately larger than before on the average,⁴ but the tallage was the most general in application of any of the levies of Henry II. The assessments of the towns were made in connection with a judicial *iter*,⁵ so that it was not possible to have the returns from all the counties of England in the same year. The aid *burgorum et villarum* of the counties Warwick and Leicester, Buckingham and Bedford, Shrop, Worcester, Hertford in Wales, Stafford, Gloucester, Northumberland, Berks, Oxford is recorded in the Rolls of 1169. As may be seen from the table, in former

¹ Sochemanni Comitis Conani redd' Comp' de 100 m. de Dono. (R. 11, p. 37.)

² Norgate, Anj. Kings, II, 125.

³ "The assessment was one mark on the fee." (Stubbs, C. H., I, 509.)

⁴ Colecester, - - - 32 <i>l</i> .	Huntingdon, - - - 10 <i>m</i> .
Exeter, - - - 200 <i>m</i> .	Canterbury, - - - 52 <i>l</i> . 13 <i>s</i> . 4 <i>d</i> .
Northampton, - - - 200 <i>m</i> .	Bedford, - - - 30 <i>m</i> .
Southwark, - - - 19 <i>m</i> .	York, - - - -
London, - - - 617 <i>l</i> . 16 <i>s</i> . 8 <i>d</i> .	Lincoln, - - - 233 <i>l</i> . 6 <i>s</i> . 8 <i>d</i> .
Geldford, - - - 9 <i>l</i> . 6 <i>s</i> . 8 <i>d</i> .	Gloucester, - - - 61 <i>l</i> . 6 <i>s</i> . 8 <i>d</i> .

⁵ The accounts are often under a heading :

"Nova Placita et Novae Conventiones de Auxil' ad maritand' filiam Regis;" the fines and amerciements being given in connection with the Aid.

years the towns were generally tallaged for a round lump sum, and while the amount in the case of a single town was not the same every year, an assessment of this kind was apt to recur. In 1168 a different method was applied. Prominent men of the town, like the reeve,¹ in many cases paid individually, and even where the community contributes, men also give individually.²

Counting what came from individual contributions of towns as well as from the collective "burgers" and "men" of the various towns, the entire amount collected in the 2 years was about 4549 l.

II. *The Scutage of 1 m. per Knights' Fee.*—In the various levies of the scutages hitherto there has been a portion of the knight tenants who performed their obligations by personal service, and a portion who paid the tax. In the case of the aid for the marriage of the king's daughter such a question is eliminated. The demand naturally fell upon all tenants *in capite* and it may be expected that as a tax on knights' fees it applied more extensively than any other levy of Henry II. A number of the greater barons appear in the Roll contributing toward this aid, who did not make any payments in the previous scutages. More may be learned, therefore, from the records of 1168 concerning knights' fees than those of any other year. The payment of 1 m. per fee as aid may justly be called scutage, for while *auxilium* is the word commonly employed in the roll, *scutagium* is also used.³

Before the aid of 1168 was taken a new method of assessment in regard to knights' fees had been introduced. It has already been described in this essay how the barons owed the king for their estates their certain quotas of knight service,

¹ "Rob' prepositus de S. Martino redd' Comp' de 1 m. de eodem auxilio." (R. 14, p. 155.)

² In Waltham: "Rad' le Napier redd' Comp' de 20 s. de eodem auxilio."

"Commune ville reddt Comp' de 40 s. de eodem auxilio."

"Ceteri homines ejusdem ville reddt Comp' de 4 l. 3 s. 4 d. de eodem auxilio." (R., 14, p. 40.)

³ Abbas de Certesia debet 1 m. de Scut' ad maritandam filiam Regis. (Pipe Roll, 1, Ric. I., 218; Pipe Roll, 14, H. II., 26.)

which were the result of common understanding and tradition; how the barons fulfilling their obligations to the king could subdivide their estates as they saw fit, whether they enfeoffed more knights than they themselves owed, or fewer knights, or the same number. Those holding the largest estates had the best opportunities to create fees far beyond what they owed the king, so that when the Scutage was collected they would derive a certain profit from the surplus fees. The archbishop of Canterbury regularly owed 60 knights, but in 1165, when the archbishopric was "in custody," and the king derived all the profits from the lands, the scutage returned was that of $84\frac{3}{4}$ knights.¹ With a view to putting an end to such special advantages which the barons were deriving from the system, and to bring these advantages to the side of the crown, the king, 1166, had issued, probably through the agency of the sheriffs, inquiries to each of the barons as to how many knights they each had enfeoffed. As Mr. Round has paraphrased these inquiries:

1) "How many knights had been enfeoffed before the death of Henry I?"

2) "How many have been enfeoffed since?"

3) "How many (if any) remain to be enfeoffed to complete the 'service' due from the fief?"

4) "What are the names of your knights?"²

The barons, not knowing the object of these inquiries, answered for the most part in good faith, and sent their answers in the form of cartels. Such cartels were not altogether a new thing, as one may be seen for about the year 1125, naming all the tenants of a manor.³ The demand, therefore, in 1166 did not occasion any surprise.

The king did not altogether discard the old system of assessment based on the *servitium debitum*, or uniformly substitute the new one based on the actual number of fees created, but selected in every case whichever of these two systems told in

¹ R. 11, p. 109.

² For the discussion of the Cartae, see Round, Feud. Eng., 236.

³ Chron. Petrob. (Cam. Society), Appendix.

his own favor and against the tenant of the fief.¹ The barons were surprised and showed some chagrin at being obliged to pay for all the knights' fees belonging to them. The churchmen were permitted to make their payments under a mild form of protest recorded in the following way. An amount such as one was accustomed to pay according to the old *servitium debitum* was designated for knights "*quos recognoscit*;" what had to be paid beyond this was for knights "*quos non recognoscit se debere Regi*."² As a rule the first item was paid with promptness, while the second fell in arrears. In some cases the new method did not make any difference in the amounts paid, while in others, like the Bishop of Durham, it made a great deal. *E. g.*:

Bishop of London, - -	{ 113 <i>l.</i> 6 <i>s.</i> 8 <i>d.</i> q. recognoscit
	{ 1 <i>l.</i> 17 <i>s.</i> 9 <i>d.</i> q. non recognoscit
Bishop of Lincoln, -	{ 40 <i>l.</i>
	{ 28 <i>l.</i>
Bishop of Ely, - - -	{ 40 <i>m.</i>
	{ ———
Archbishop of York, -	{ 20 <i>m.</i>
	{ 23½ <i>m.</i>
Bishop of Worcester, -	{ 32 <i>l.</i> 17 <i>s.</i> 4 <i>d.</i>
	{ ———
Bishop of Chester, -	{ 10 <i>l.</i>
	{ ———
Bishop of Exeter, - -	{ 10 <i>l.</i> 6 <i>s.</i> 8 <i>d.</i>
	{ 11 <i>l.</i> 16 <i>s.</i> 2 <i>d.</i>
Bishop of Winchester, -	{ 40 <i>l.</i>
	{ 9 <i>l.</i> 13 <i>s.</i> 4 <i>d.</i>
Bishop of Chichester, - -	{ 4 <i>m.</i>
	{ 73 <i>s.</i> 10 <i>d.</i>
Bishop of Durham, -	{ 10 <i>m.</i>
	{ 40 <i>l.</i> 12 <i>s.</i> 2 <i>d.</i>
Archbishop of Canterbury (in custody), - - -	{ 56 <i>l.</i> 10 <i>s.</i>
Abbot of Cerne, - -	{ 2 <i>m.</i>
	{ 8 <i>m.</i>
Bishop of Salisbury, - -	{ 21 <i>l.</i> 6 <i>s.</i> 8 <i>d.</i>
	{ 113 <i>s.</i> 4 <i>d.</i>

¹ Round, Feud. Eng., 236.

² "Archiepe Ebor' redd' Comp' de 20 m. de eodem auxil' pro 20 militibus quos recognoscit se debere Regi. In thro liberavit. Et quietus."

"Id deb 23½*m.* pro 23½ Mil' quos non recognoscit se debere Regi." (R. 14, 88.)

Bishop of Bath, - -	{ 20 <i>m</i> .
Abbot of St. Edmunds, -	{ 40 <i>m</i> .
	{ 12 ½ <i>m</i> .
Abbess of Glastonbury, -	{ 26 <i>l</i> . 13 <i>s</i> . 4 <i>d</i> .
	{ 60 <i>s</i> .

The lay barons, so far as they were affected by the new arrangement, made their payments, first, for old enfeofments, that is, land enfeoffed before the death of Henry I; second, for new enfeofments, or lands enfeoffed since that time. A few examples will illustrate how in some cases the new enfeofments exceeded the old, while in others there was little difference:

Simon de Bellocamp, - -	{ 30 <i>l</i> . 10 <i>s</i> . 8 <i>d</i> ., Old Enf.
	{ 5 <i>l</i> . 6 <i>s</i> . 8 <i>d</i> ., New "
William Malduit, - -	{ 23 <i>s</i> . 4 <i>d</i> .
	{ 36 <i>s</i> . 8 <i>d</i> .
Earl of Clare, - - -	{ 94 <i>l</i> . 11 <i>s</i> . 10 <i>d</i> .
	{ 5 <i>l</i> . 3 <i>s</i> . 4 <i>d</i> .
William de Muntfichet, -	{ 31 <i>l</i> . 10 <i>s</i> .
	{ 9 <i>s</i> . 4 <i>d</i> .
Earl William, - - -	98 <i>m</i> . 3 <i>s</i> . 5 <i>d</i> .
Earl of Warwick, - -	{ 68 <i>l</i> . 4 <i>s</i> . 5 <i>d</i> .
	{ 2 <i>m</i> .
Roger de Mobray, - - -	{ 58 <i>l</i> . 16 <i>s</i> . 8 <i>d</i> .
	{ 7 <i>l</i> . 15 <i>s</i> . 6 <i>d</i> .
Henry de Lacy, - - -	{ 42 <i>l</i> . 10 <i>s</i> . 10 <i>d</i> .
	{ 13 <i>l</i> . 8 <i>s</i> . 6 <i>d</i> .
Earl of Gloucester, - -	261 ½ <i>m</i> .
Earl Reginald, - - -	215 <i>m</i> . 4 <i>s</i> . 5 <i>d</i> .
Earl Hugh of Chester, - -	{ 80 <i>l</i> . 70 <i>s</i> .
	{ 37 ½ <i>m</i> .
William de Muntfichet, -	{ 21 <i>l</i> . 10 <i>s</i> .
	{ 9 <i>s</i> . 4 <i>d</i> .
Walter fil Robert, - - -	{ 42 <i>l</i> . 6 <i>s</i> . 8 <i>d</i> .
	{ 43 <i>s</i> . 4 <i>d</i> .
Maurice de Creon, - -	{ 15 <i>l</i> .
	{ 60 <i>s</i> .
Earl Simon, - - -	{ 45 <i>l</i> . 13 <i>s</i> . 9 <i>d</i> .
	{ 9 <i>l</i> . 10 <i>s</i> . 5 <i>d</i> .
Roger de Mobray, - -	{ 58 <i>l</i> . 16 <i>s</i> . 8 <i>d</i> .
	{ 7 <i>l</i> . 15 <i>s</i> . 6 <i>d</i> .
Honor of Toteneis, - - -	{ 37 <i>l</i> . 4 <i>s</i> . 10 <i>d</i> .
	{ 12 <i>l</i> . 15 <i>s</i> . 1 <i>d</i> .

In most cases the amount that was paid for old enfeofments was fully as great as what had been paid before for the *servitium debitum*, or greater, while what was paid for new enfeofment was an increment to the advantage of the crown.² Yet this was not true in every instance, for

Simon de Bellocamp paid 36 <i>l.</i> 11th year; and in	{	30 <i>l.</i> 10 <i>s.</i> 8 <i>d.</i> old enfeof.	
14th year - - - - -	}	106 <i>s.</i> 8 <i>d.</i> new " "	²
Earl Simon paid 61 <i>l.</i> 11th year; and in	{	45 <i>l.</i> 13 <i>s.</i> 9 <i>d.</i>	
year - - - - -	}	9 <i>l.</i> 10 <i>s.</i> 5 <i>d.</i> ³	
Robert "filius Regis" paid 100 <i>m.</i> 11th year; and	{	61 <i>l.</i> 17 <i>s.</i> 1 <i>d.</i>	
in 14th year - - - - -	}	13 <i>s.</i> 4 <i>d.</i> ⁴	

The *servitium debitum* of the first two men cannot be determined with accuracy, but the *servitium debitum* of Robert is given as 100 knights in the list compiled by Round.⁵ Simon de Bellocamp reported in his *Carta* 53 $\frac{9}{10}$ knights,⁶ while in 1165 he paid for 54 knights. Earl Simon, in his *Carta*, did not report any knights on domain. These must be taken as exceptions to the statement of Mr. Round that the king was in every case the gainer by the new arrangement.⁷ The question of paying according to the number of fees created came up only in reference to the greater barons and churchmen who were in a position to sublet their lands on an extensive scale, but most of the landholders of the kingdom, who held not more than several fees each, were not affected by the new arrangement at all. They paid for their one, two, or more knights as before.

Most of the barons drew up their *cartae*, showing the number of fiefs created on their estates and the number of knights *super dominium*, willingly and carefully, and these returns were kept in

² Robert de Stutevill in 1165 paid 106*s.* 8*d.* (R. II, p. 50). In 1168 he paid 106*s.* 8*d.* old enfeofment, and 20*d.* new. (R. 14, p. 88.)

Robert Marmion, 1165, paid 8*l.* (R. II, p. 83); in 1168, { 7*l.* 12*s.* 8*d.* old enfeof.
70*s.* new "

³ R. 14, p. 11.

⁵ Round, Feud. Eng., 253.

⁴ R. 14, p. 65.

⁶ Lib. Nig., 201.

⁷ R. 14, p. 127.

⁷ Instead of adhering to the old assessment, or uniformly substituting a new one based on the fees actually created, the crown selected in every case whichever of these two methods told in its own favor and against the tenant of the fief. (Feud. Eng., 242.)

the Exchequer as the basis for future levies of the Scutage. But all did not. Some of these are accounted for by the sheriffs in the fourteenth year as knights "qui de Rege tenent in Capite in Baillia sua qui non miserunt Regi Cartas de Tenemento suo."¹ Many such delinquents escaped payment for the aid, and were not made to pay for their fees until the scutage of Ireland in 1172. In the Roll for that year, in the returns from the counties of Oxford, Northampton, Buckingham and Bedford, York, Dorset and Somerset, Wilts, Sussex, Kent, Lincoln, are special lists "de his qui Cartas non miserunt."² In Dorset and Somerset the list represented payments for as many as 8 knights. None of these were made to pay towards the aid of 1168, and this may have been one of the points in which the sheriffs were derelict, wherefore they were dismissed from office in 1170.

It is instructive to note the amount of the scutage as compared with the tallage. This may be done with the aid of the following table :

	Towns	Knight fees
Middlesex (London), - - -	617 <i>l.</i> 16 <i>s.</i> 8 <i>d.</i>	25 <i>l.</i> 4 <i>s.</i> 5 <i>d.</i>
Buckingham and Bedford, - -	*47 <i>l.</i> 16 <i>s.</i> 8 <i>d.</i>	174 <i>l.</i> 2 <i>s.</i> 8 <i>d.</i>
Norfolk and Suffolk, - - -	653 <i>l.</i> 3 <i>s.</i> 4 <i>d.</i>	447 <i>l.</i> 4 <i>s.</i> 13 <i>d.</i>
Essex and Hertford (no large towns),	171 <i>l.</i> 5 <i>s.</i> 4 <i>d.</i>	380 <i>l.</i> 13 <i>s.</i> 10 <i>d.</i>
Northampton, - - - -	200 <i>l.</i> 13 <i>s.</i> 4 <i>d.</i>	75 <i>l.</i> 2 <i>s.</i> 3 <i>d.</i>
York, - - - - -	565 <i>l.</i> 13 <i>s.</i> 4 <i>d.</i>	375 <i>l.</i> 3 <i>s.</i> 1 <i>d.</i>
Nottingham and Derby, - -	171 <i>l.</i> 4 <i>s.</i> 8 <i>d.</i>	140 <i>l.</i> 13 <i>s.</i> 4 <i>d.</i>
Warwick and Leicester, - - -	*27 <i>l.</i> 13 <i>s.</i> 4 <i>d.</i>	107 <i>l.</i> 16 <i>s.</i> 1 <i>d.</i>
Lincoln, - - - - -	311 <i>l.</i> 8 <i>s.</i> 6 <i>d.</i>	255 <i>l.</i> 4 <i>s.</i> 7 <i>d.</i>
Shropshire, - - - - -	*30 <i>l.</i> 3 <i>s.</i> 4 <i>d.</i>	* ³ 65 <i>s.</i> 4 <i>d.</i>
Cambridge and Huntingdon, -	119 <i>l.</i> 16 <i>s.</i> 8 <i>d.</i>	203 <i>l.</i> 16 <i>s.</i> 9 <i>d.</i>
Worcester, - - - - -	*72 <i>l.</i> 6 <i>s.</i> 8 <i>d.</i>	52 <i>l.</i> 13 <i>s.</i> 9 <i>d.</i>
Hertford in Wal., - - - -	*21 <i>l.</i> 13 <i>s.</i> 4 <i>d.</i>	116 <i>l.</i> 10 <i>d.</i>
Stafford, - - - - -	*44 <i>l.</i> 19 <i>s.</i> 10 <i>d.</i>	84 <i>l.</i>
Gloucester, - - - - -	*162 <i>l.</i> 4 <i>s.</i> 4 <i>d.</i>	218 <i>l.</i> 2 <i>s.</i> 10 <i>d.</i>
Devon, - - - - -	257 <i>l.</i> 9 <i>s.</i> 8 <i>d.</i>	452 <i>l.</i> 2 <i>s.</i> 2 <i>d.</i>
Dorset and Somerset, - - -	330 <i>l.</i> 4 <i>s.</i> 6 <i>d.</i>	285 <i>l.</i> 3 <i>s.</i> 5 <i>d.</i>

¹ R. 14, pp. 65, 90.

² R., 18 y.

³* "Vic non reddidit Compotum de feodis Aliorum Militum de Ballia sua de eodem Auxilio filiae R. quia est in respectu p Barones donec Rex praecipiat." (R. 14, p. 95.)

Wilts,	-	-	-	-	-	67 <i>l.</i> 6 <i>s.</i> 8 <i>d.</i>	136 <i>l.</i> 13 <i>s.</i> 4 <i>d.</i>
Northumberland,	-	-	-	-	-	*156 <i>l.</i> 6 <i>s.</i> 8 <i>d.</i>	57 <i>l.</i> 2 <i>s.</i> 9 <i>d.</i>
Hampshire,	-	-	-	-	-	208 <i>l.</i> 12 <i>s.</i>	101 <i>l.</i> 3 <i>s.</i> 4 <i>d.</i>
Sussex,	-	-	-	-	-	19 <i>l.</i> 4 <i>s.</i> 4 <i>d.</i>	148 <i>l.</i> 19 <i>s.</i> 10 <i>d.</i>
Berks,	-	-	-	-	-	24 <i>l.</i>	48 <i>l.</i>
Oxford,	-	-	-	-	-	73 <i>l.</i> 6 <i>s.</i> 8 <i>d.</i>	37 <i>l.</i> 17 <i>s.</i> 9 <i>d.</i>
Kent,	-	-	-	-	-	247 <i>l.</i> 16 <i>s.</i> 8 <i>d.</i>	78 <i>l.</i> 16 <i>s.</i>
Surrey,	-	-	-	-	-	47 <i>l.</i> 6 <i>s.</i>	3 <i>l.</i>
Total,	-	-	-	-	-	4549 <i>l.</i> 14 <i>s.</i> 6 <i>d.</i>	4006 <i>l.</i> 3 <i>s.</i> 5 <i>d.</i>

It will be seen that in most of the counties the tallage of towns was larger than the scutage. Where the county was made up mostly of urban population, and did not contain extensive rural districts, as in the case of Middlesex, the revenue from the towns was sure to be more important; where there were no great towns and there was some earl who held perhaps 200 knights, as in Gloucester, the scutage predominated; while in an average district like Nottingham and Derby, as well as in the entire kingdom, the *donum* from the towns brought in the more money. It has been true in other years that the scutage was not as important as levies of other kinds, but the fact of its being so at this time is of more significance.

III. The aid was increased by certain other contributions, mostly from the churchmen. These are designated "*de promissione sua ad maritandam filiam.*" Thus:

Serv. deb.

Bishop of Norwich (40 knights), 40 *m.*, "*de promissione.*"

Bishop of Chester (15 knights), 40 *m.*, "*de promissione.*"

Abbot of St. Edmunds (40 knights), 40 *m.*, "*de promissione.*"

Abbot of Burton (no knights), 40 *s.*, "*de promissione.*"

Abbot of Gloucester (no knights), 40 *m.*, "*de promissione.*"

Abbey Hulm (3 knights), 28 *l.* 6 *s.* 8 *d.*, "*ad maritandam filiam R.*"¹

Abbey Bath (—), 100 *l.*, "*de assisa facta super Dominia Ep' atus ad maritandam filiam R.*"

William de Bellocamp, 40 *m.*, "*de promissione.*"

Sheriff of Northumberland, 40 *m.*, "*de promissione.*"

Not all the churchmen paid these sums, and those who did paid irrespective of their knights or whether they held any at

¹R. 14, p. 33.

all. Some of the institutions making these returns were for the time in custody, and William de Bellocamp and the Sheriff of Northumberland probably made the "promise" for establishments in their custody. The amount gathered from this source was not large.

IV. An aid from some of the moneyers, *e. g.*: moneyers of Northampton, 10 *l.* (100 *s.* in 11th year); moneyers of London, 27½ *m.* (62½ *m.* in 5th year); moneyers of Norwich, 10 *m.* (40 *s.* in 11th year). Yet all the moneyers are not charged. Those of York, Lincoln, Nottingham, Oxford, Stafford are not charged.

Thus it is evident that the aid for the marriage of the king's daughter was made up in several ways, and that of the different forms the scutage was not the most important financially. It has been said that this aid "was a strictly feudal impost."¹ Miss Norgate thought of the scutage as being the whole of this impost, but in this connection it may be asked to what extent the tallage of towns and other such *dona* were feudal. A tallage was an arbitrary due payable from demesnes, escheats, and warships to the King or other lord.² It was technically of a feudal character, the principle being that a lord could use as he pleased the unfeudated portion of his estate. So the King could administer as he saw fit the unfeudated portions of the kingdom. The strictly feudal parts or knights' fees were protected by the crude code of feudal law. A certain amount of service could be exacted from them for a limited time; money payments could be demanded from them only at certain junctures, as defined by the three regular aids, relief, etc. Knights' fees could not be tallaged.³ The portions that were not given out in knights' fees were not defended by the feudal code. The towns were not limited in their obligations to the king except so far as he chose to give the charters. Firms (or socage) and other forms of tenure besides knights' fees could likewise be tallaged.⁴

¹ Norgate, *Anj. Kings*, II, 125.

³ *Ibid.*, 745.

² Madox, *Hist. Exch.*, I, 694.

⁴ Tallage was not chargeable on land held by knight service, *e. g.*: "Villafa de

In a larger sense the unfeudated parts of the kingdom were the non-feudal parts; the king's domain was the strictly national portion. The clergy always bore a relation to the state that did not admit of their being considered merely as feudal landholders. Henry II made the coinage of the country truly national, and the moneyers were held closely accountable to him. When the hidage or carucage first appeared under Richard, 1194, it was called a tallage.¹ The various imposts, therefore, which were levied upon towns, clergy, moneyers, Jews, may be regarded as non-feudal in character, and if they do not rise to the dignity of national taxes, they may be considered in the light of a crude form of class taxation under the complete control of the King's Exchequer.

Relating to the aid of 1168 Stubbs says that "the collection of the money occupied the barons two years, and, as appears from the action of the next year, did not satisfy the King, while it called forth great complaints on the part of the people."² This summary statement of the case is worth a little explanation. As has been said before, the assessment on the towns for the aid was made by judges who were going about on a judicial circuit. As they held pleas in each of the counties, it was impossible for the work to be finished in one year, and the aid from a number of the counties as well as returns from the court proceedings were recorded for the first time in the Roll for 1161. The scutage of 1 *m.* per knight's fee, however, was all accounted for in the Roll for 1168, but there were many arrears left to be paid in the next year or even after. Yet it will be noticed that the portion of the aid that was unpaid in the year of its assessment was the new increment which they had not been accustomed to pay; in the case of the churchmen for the knights "*quos non recognoscit*," in other instances for new enfeofments.

Wicumbe debet 30 l. 8 d. de Taillagio. Sed consideratum est per justiciarium et Barones, quod Manerium illud non debet taillari, quia inde facit Alanus de Basset servicium militare, sicut continentur in Carta ipsius." (Rob., I, Jn. Madox, I, 745.)

¹ Rot. Curiae Regis (Ed. Maitland), 108, 1220: "Taillagium per Angliam de Singulis carucis 2 sol." (Ann. Wav., 293.)

² Stubbs, C. H., I, 509.

For example, the Bishop of Norwich paid for the 40 knights "*quos recognoscit*," and was acquitted in the 14th year, but he still owed for the $8\frac{3}{4}$ knights "*quos non recognoscit*" in the 19th year.¹ Of course, the barons did not relish being called to account for more knights than they had been before, but the rate of 1 mark per fee could not be considered oppressive, and it was paid generally with fair promptness. The new method of assessing the barons for the fees they had created could not have been the cause of popular complaint, for the new arrangement affected only the magnates, while the lesser tenants-in-chief paid just as before. With subtenants it could make no difference whether the emoluments from the extra fees created went to the advantage of the lord or of the king. Yet there was complaint of the manner in which the sheriffs conducted the business in connection with the aid, and in 1170, when the sheriffs were turned out of office and an investigation of their conduct was made, the subject of the aid was one of the articles in the Inquest.² We know that a number of persons holding knights' fees did not make any response to the demand for the *cartae*, and so escaped the payment of the aid. As the barons received their instructions in this matter from the sheriffs, and likewise sent in their returns through those officers,³ the blame for permitting any parties to escape the payment might reasonably fall upon the sheriffs. In taking the aid of the towns, also, and individuals of the towns, there was plenty of opportunity for favoritism and venality on their part.

The king was not wrong in trying to bring about a more rational method in the assessment of scutage. The old *servitium debitum*, as has been said, was based upon allotments made in a former generation. The amount of service due had been

¹"Epc Norwic' redd' Comp de 40 m. p 40 mil' quos recognoscit se debere Regi. In thro liberavit. Et Quietus est." "Ib debet 116 s. 8 d. p. viii Mil. et dim et quarta parte Mil. quos non recognoscit se debere Regi." (R. 14, p. 21.)

²"VI. Et inquiratur de auxiliis ad maritandam filiam regis, quid inde exierit de singulis hundredis et singulis villatis, sive in redditis sive in perdonis, et cui illud traditum fuerit et liberatum." (Sel. Char., 149.)

³Round, Feud. Eng., 240.

determined apparently haphazard rather than upon any settled principle. How many knights a baron owed was a matter of tradition and common understanding. There was room here for disagreement, and there was a perpetual squabble between the constable and some of the barons as to how many knights ought to be furnished. The assessments of the different scutages were not in every case uniform. The Abbey of Glastonbury in the first two scutages paid for 60 knights, but after that for 40; Shaftesbury at first paid for 10, but afterwards for 7; the Bishopric of Exeter sometimes paid for 15½ knights, and at other times for 17½; the Abbey of Pershore paid for 3 knights in the first scutage, protesting that it only owed 2, and after 1168 it was charged for 2; the Earl of Ferrers paid for 80 knights in 1159, but in his *carta* speaks of 60 knights; Daniel de Crevecoeur paid for 20 fees in 1161, but in the eighth year paid for 12, in the fourteenth year for 14; William de Helion paid for 15 knights at first, and later for 10.¹ In many instances it is impossible to tell what their *servitium debitum* was. Great inequalities had grown up. The Bishop of Durham, whose *servitium debitum* was 10 knights, had enfeoffed 70;² the Abbot of Cerne, whose *servitium debitum* was 2 knights for the army, had enfeoffed 10. Some had made enfeofments far beyond what they owed the king, but most had made enfeofments to correspond more nearly to what they had to render. It was, therefore, a measure not only greatly to the advantage of the crown, but of ordinary fair policy, to have the burdens of army service borne more nearly according to the means of the barons. If some estates had proved to be more valuable than others, it was not unjust that their burdens should be heavier. The efforts of the king in carrying out this policy were not wholly successful, for the accounts for knights "*quos recognoscit*" and new enfeofment fell universally in arrears, and Madox states that he never knew of such arrears being paid. Yet a new era was inaugurated when the crown could keep accurate statements of the available resources of each of its tenants.

¹ For instances see Round, *Feud. Eng.*, 249 *et seq.*

² R. 14, p. 89.

SCUTAGE OF IRELAND.

The scutage of the eighteenth year differed from any of the others thus far considered, in that it was not attended by any other kind of *donum*. It was customary to take in connection with the scutage a *donum* from the towns, and perhaps from the moneyers, Jews, or clergy some impost, both with a view to raising the necessary amount of money and to bring other classes of the population as well as the knight tenants under some form of taxation. The two years following the death of Becket, 1170, and preceding the rebellion of 1173, were troubled ones, and the stern king had to compromise himself even so far as to renounce the Constitutions of Clarendon.¹ The accounts for the marriage of the daughter were still running and seem to have been paid with some difficulty. In this condition of affairs it would not have been wise to lay any additional burdens on the people. The accounts are given under the title, "Scutage of barons who did not go with the king to Ireland, nor send knights or money for themselves thither."² The expedition in question took place in 1171, and, considering all the facts in the case, the army could not have been a very large one. The number of knights is given as 400 or 500, while the whole force was about 4000 men, carried by 400 ships.³ We are not told of the employment of any mercenaries, and the Roll of the eighteenth year shows that most of the tenants in chivalry did not follow in the campaign. It may be inferred from the fact that the barons were considered under obligations to go or contribute towards this expedition that the summons in 1171 was a general one. Legally the barons who did respond to the summons were liable to forfeiture or fine at the king's mercy, but inasmuch as six-sevenths of the barons were remiss, stringent measures against them would be out of the question, if at all contemplated. The scutage was a

¹ Stubbs, C. H., I, 513.

² "De Scutagio Baronum qui nec abierunt cum Regi in Iberniam nec milites nec denarios illuc pro se miserunt." (R. 187.)

³ Giraldus gives 500 knights, V, p. 275; Anglo-Norm. Poem, 400, p. 123. Benedict says, "Magnum congregavit exercitum," Ben. Pet., I, 25. (See Norgate, II, 112.)

convenient and equitable means for the king to get even with the barons, and thus it may be regarded, as Stubbs says, in the light of a fine.¹ This is the form that the scutage generally assumed in succeeding years, though it may not always be confused with the fines. It will be seen from the amount of the scutage in the appended table that in a few counties the sums were larger than in 1168.² This is due partly to the larger rate of the levy, this being 20 s. per fee, and partly to the fact of certain persons being made to contribute who did not when the aid was taken. In Oxfordshire, among those "who did not send *cartae*," Hugh de St. German rendered account for 50 l. for the fief of Bernard of St. Waleric; Walkelin of Hareng rendered 20 s.;³ in Buckinghamshire and Bedfordshire the land which was Osbert Martell, Humphrey Vis de Lu, Agnes Bereville, Robert Survia, etc., rendered accounts which are noticed in the fourteenth year

¹ Stubbs, Pref. Ben. Pet., 8, etc.

² Hertford in Wales,	-	-	-	185 <i>l.</i> 12 <i>s.</i> 1 <i>d.</i>	
Nottingham and Derby,	-	-	-	124 <i>l.</i> 10 <i>s.</i>	
York,	-	-	-	404 <i>l.</i> 14 <i>s.</i> 6 <i>d.</i>	
Worcester,	-	-	-	64 <i>l.</i> 10 <i>s.</i>	
Oxford,	-	-	-	75 <i>l.</i> 5 <i>s.</i>	
Norfolk and Suffolk,	-	-	-	197 <i>l.</i> 7 <i>s.</i>	
Northampton,	-	-	-	195 <i>l.</i> 8 <i>s.</i> 4 <i>d.</i>	
Essex and Hertford,	-	-	-	66 <i>l.</i> 18 <i>s.</i> 7 <i>d.</i>	
Buckingham and Bedford,	-	-	-	269 <i>l.</i> 15 <i>s.</i> 8 <i>d.</i>	
Dorset and Somerset,	-	-	-	134 <i>l.</i> 7 <i>s.</i> 8 <i>d.</i>	
Hampshire,	-	-	-	57 <i>l.</i> 20 <i>s.</i>	
Lincoln,	-	-	-	92 <i>l.</i> 16 <i>s.</i>	
Devon,	-	-	-	299 <i>l.</i> 14 <i>s.</i>	
Stafford,	-	-	-	16 <i>l.</i>	(Bp. Chester)
Warwick and Leicester,	-	-	-	188 <i>l.</i> 7 <i>s.</i> 10 <i>d.</i>	
Shrop,	-	-	-		
Cambridge and Huntingdon,	-	-	-	136 <i>l.</i> 10 <i>s.</i>	
Gloucester,	-	-	-	55 <i>l.</i> 15 <i>s.</i>	
Wilts,	-	-	-	146 <i>l.</i> 13 <i>s.</i>	
Sussex,	-	-	-	156 <i>l.</i>	
Kent,	-	-	-	210 <i>l.</i> 14 <i>s.</i>	
Surrey,	-	-	-	4 <i>l.</i>	(Abbot)
Middlesex,	-	-	-	37 <i>l.</i> 16 <i>s.</i> 8 <i>d.</i>	(Bp.)
Total,	-	-	-	3298 <i>l.</i> 3 <i>s.</i> 4 <i>d.</i>	

³ R. 18, p. 20.

claim to the district north of this line as theirs by right of inheritance. Northumbria had a varying boundary, and the region from Tyne to Forth seems to have been included, now under the name Bernicia, again under Saxonia, and sometimes under the varying names of Lothian. "The Border" was an exceedingly unstable quantity. But in the feudal period Lothian seems to have been always shut off from the Tweed by the Scottish March. The similarity, in the Latin, of Lothian and Leeds has increased the confusion. Beda twice refers to Loidis, and it seems pretty clear that to his mind "regio Loidis" meant the district of Leeds.¹

The A.-S. Chronicle reads, "when King Malcolm heard that they [William and Robert] would seek him with a force, he went with his force *ut of Scotlande into Lothene on Engaland* and there awaited" (1091). This Mr. Thorpe translates "the district of Leeds," in accordance with Florence of Worcester, who wrote "provincia Loidis." It should be remembered that Florence followed a copy of the Chronicle which has not been preserved. Simeon of Durham and later writers agree with Florence in using "provincia Loidis," though in 1018 Simeon designates *Lothian* as "Lodoneium." Walter of Hemingburgh writes "provincia Lowdicensis juxta confinia ad resistendum praeparatus."²

Was the meeting of Malcolm and William, then, in the district of Leeds, or north of the Tweed in what was definitely known as Lothian, or at some place between the Tyne and Tweed, in the region anciently claimed by the Picts and Scots? Mr. Burton maintains the first view, and is supported by Mr. Thorpe's translation of the Chronicle.³ Mr. Skene and English writers oppose this view in favor of the second.⁴ Pinkerton is a strong advocate of the third view, making the place of meeting in the modern county of Northumberland.⁵

There is at least one objection to a meeting in the district of

¹ Beda, Bk. II, Cap. 14; Bk. III, Cap. 24; Celtic Scot., I, p. 254.

² Chronicon, I, p. 23.

⁴ Celtic Scot., I, p. 429, note.

³ Hist. Scot., I, pp. 378, 444, notes.

⁵ An Enquiry, etc., II, p. 209. Cf. Hailes' Annals, I, p. 24.

who are reported in the Roll of the eighteenth year as not having sent *cartae*, the three mentioned are about the only ones who are recorded at all in the fourteenth year, *e. g.*, compare the lists of Oxford for the eighteenth year and the fourteenth year;¹ Walkelin Harenc is one of the list in the eighteenth year who did not send *cartae*, and in the fourteenth year the sheriff renders his account as he did not send a *charta*,² the other names do not appear in the fourteenth year; in Northampton, for the eighteenth year, the sheriff renders account for the knights' fees of Hecham and Olney.³ In the fourteenth year these fees are recorded as escheats,⁴ and so there would be no one in possession of them to return cartels; the name Lachuche is not recorded in the fourteenth year; in Buckingham and Bedford some of the names in the eighteenth year occur in the fourteenth year, but most do not;⁵ in York, for the fourteenth year, is the following entry:

"Id vic' redd' Comp' de feodis Baron' et milit' qui de Rege tenent in capite in Baillia sua qui cartas de tenemento suo Regi non miserunt. Scilicet de 20 m. de feodo Com' Albemarl'. Et de 50 m. de feodo Com' Conani. Et de 2 m. de feodo Ade de Brus quod tenet de Com' Cestr. Et de 16 m. de feodo quod idem Adam tenet de Rege. Et de 10 m. de feod' Willi Tussebut. Et de 5 m. de feod' Rob de Bruis. Et de 5 m. et dim de feodo Jocelini de Luvain. Et de 1 m. de feodo Willi de Filger."⁶

All of these names except Earl Conan appear in the eighteenth year among those who did not send *cartae*; while in the eighteenth year other names are added.⁷ In Dorset and Somerset none of those who did not send *cartae* are recorded in the fourteenth year.⁸ It seems altogether likely that in the fourteenth year the sheriffs made some efforts to get returns from

¹ R. 18, p. 20; R. 14, p. 207.

² "Id vic' redd' Comp' de 1 m. p. feodo Walchelini Harenc qui de tenemento suo Chartam non misit." (R. 14, 207.)

³ R. 18, p. 37; R. 14, p. 53.

⁴ "Id vic' redd' Comp' de 23 s. 4 d. de feodo mil' escaett' de Olnea de eodem auxilio." (R. 14, p. 53.)

⁵ R. 18, p. 52; R. 14, p. 10.

⁷ R. 18, p. 62.

⁶ R. 14, p. 90.

⁸ R. 18, p. 77; R. 14, p. 141.

those who had not sent *cartae*.¹ Their efforts in this direction, whether from remissness or inability, were not wholly successful or satisfactory. The work was further carried out and the lists made complete by the new sheriffs in 1172. In some cases the number of fiefs for which the party paid was amended. Thus, in Yorkshire, Jocelin de Luvain in the fourteenth year paid for $5\frac{1}{2}$ fiefs, but in the eighteenth year paid for 6;² certain fees in Hecham in the fourteenth year paid for $2\frac{1}{2}$ knights, but in the eighteenth year paid for $2\frac{3}{4}$.³ Madox failed to understand the real purport of the *cartae* of 1166; he ignored the sweeping nature of the revolution that was thereby affected in the assessments of knights' fees. Believing that the *cartae* of 1166 were for the specific levy of the aid to marry the daughter,⁴ he understood that the *cartae* referred to in the eighteenth year were for the particular scutage of Ireland.⁵ The Red Book, however, whose authority on this point Madox questions, is in the right about the matter.⁶ In some respects a better organization of the great honors or baronies was affected under the new sheriffs. In 1166 there was no cartel made out for the knights of Earl Conan. As his estates were in several parts of the kingdom, the accounts for his aid in 1168 are given under three separate counties by the respective sheriffs each for the knights *qui sunt in Ballia sua*.⁷ In this way about 76 knights were accounted for. In 1172 the honor in question was accounted for as a ferm of Ranulf Glanvil, and money for 176 knights was paid, but no account was rendered, because Glanvil was not as yet able to tell the number of knights of the honor.⁸

¹ "Id vic' redd' Comp' de feodo milit' qui de Rege tenent in Capite in Baillia sua qui non miserunt Regi Cartas de tenemento suo. Scl de 20 s. de proprio feodo. Et de Hacunebi terra escaeta in manum Regio de 20 s." (R. 14, p. 65.)

² R. 14, p. 90; R. 18, p. 62.

³ R. 14, p. 53; R. 18, p. 37.

⁴ "In order to the due levying of this aid out of the several fees within the realm, the barons and tenants *in capite* were commanded to certify to the king what fees they had," etc. (Madox, His. Exch., I, 575.)

⁵ *Ibid.*, I, 580.

⁶ Red Book, 8.

⁷ R. 14, pp. 23, 90, 103.

⁸ "Id' de Scutagio ejusdem Honoris de Exercitu Hyberniae. In thesauro 176 l. 12 s. 1 d. Sed non redd' Comp' quia nondum potuit scire numerum militum ejusdem Honoris." (R. 18, p. 5.)

Another remarkable feature of the scutage of 1172 is the number of greater barons who paid the money instead of going to the war. At the time of the campaign of Toulouse the Earls and most of the greater barons attended the army, while the scutage was paid almost altogether by the Churchmen and tenants holding less than 10 knights. The lands of Simon de Bellocamp and the Earl of Warwick were at that time in ferm and made returns for 88 and 73 knights respectively,¹ and the custos of the fiefs of the Earl of Ferrers paid for 80 knights.² There were several instances of paying for knights from 10 to 20 in this year; *e. g.*, of William de Romara (20), Nigel de Lovetot (10, Robert of Heliun (15).³

In the scutage of 1161, the custos of the Earl of Ferrers again paid for 80 knights, the land being in the king's hand.⁴ A number of barons paid for knights for 10 to 20; *e. g.*, Osbert son of Hugh for 15, Hamo fitz Meinfelin for 15, Nigel de Lovetot for 10.⁵ Next to the great churchmen the highest numbers accounted for were by Reginald de St. Valory and Roger de Arundel, who paid for 50 and 30 knights respectively.⁶

In the year 1162 the custos of the honor of Tickhill paid for 60 knights.⁷ The scutage of Simon de Bellocamp was for about 46 knights;⁸ that of Walter de Aincourt was for 40 knights;⁹ that of Ralf Hanselin was for 25;¹⁰ of Bernard Balliol, 30 knights;¹¹ of Hubert de Rye, 30 knights; of Earl Geoffrey, 34 knights.¹² The name of the Earl of Chester appears, but the amount that was accounted for him is effaced from the membrane. Some of these payments were probably for estates which were in the king's hand for the time, but the Roll is the most unsatisfactory of any in the method of its accounts, and it can not be determined from this record what estates were in custody.

In 1165 a larger number of the earls and greater barons paid scutage instead of attending the army of Wales. Earl Hugh and

¹ R. 5, pp. 22 and 26.

⁵ R. 7, pp. 12, 20, 45.

⁹ R. 8, p. 20.

² R. 5, p. 57.

⁶ R. 7, pp. 26 and 47.

¹⁰ R. 8, p. 33.

³ R. 5, pp. 4, 47, 55.

⁷ R. 8, p. 34.

¹¹ R. 8, p. 52.

⁴ R. 7, p. 29.

⁸ R. 8, p. 42.

¹² R. 8, p. 71.

Earl Conan each paid the large sum of 227 *l.* 10 *s.* for knights and serjeants for $\frac{1}{4}$ year.¹ Simon de Bellocamp rendered account for 54 knights;² Earl Simon rendered account for 61 *l.*;³ the Earl of Clare rendered 160 *m.* 20 *d.*⁴ (in the 14th year he paid for 131 knights). Walter de Aincourt paid for 40 knights;⁵ Henry de Rye for 35;⁶ Bernard Balliol for 30;⁷ Richard de Hay for 20;⁸ Robert the king's son accounted for 100 knights; Tayn de Montdoubleau for 40 knights; and a large number paid for 20 knights and less.

In 1168, of course, barons great and small paid the aid irrespective of whether they went to war or not.

In 1172 the following barons are conspicuous in paying the scutage. The rate being 20 *s.*, the number of pounds paid will be the same as the number of knights which they represent:

Earl Hugh, 88 *l.* 16 *s.* 4 *d.*⁹

Simon de Bellocamp, 53 *l.* 15 *s.* 8 *d.*¹⁰

Henry de Lacy, 75 *l.* 11 *s.*¹¹

Adam de Port, 55 *l.* 40 *s.*¹²

Earl Reginald (deb.), 215 *l.* 6 *s.* 8 *d.*¹³

William, son of Earl Patrick, 56 *l.* 16 *s.*¹⁴

Earl of Warenne, 60 *l.*¹⁵

Walter de Marne, 29 *l.* 30 *s.*¹⁶

William Fossard, 31 *l.* 10 *s.*¹⁷

A number of honors and baronies which were in charge of custodians rendered scutage, *e. g.*:

Honor of Earl Conan, 176 *l.* 12 *s.* 1 *d.*¹⁸

Honor of Henry de Rye, 35 *l.*¹⁹

Honor of Eye, 90 *l.* 10 *s.*²⁰

Honor of William de Curci, 45 *l.* 9 *s.*²¹

¹ R. 11, pp. 7, 49.

² R. 11, p. 24.

³ R. 11, p. 49.

⁴ P. 105.

⁵ P. 37.

⁶ P. 8.

⁷ P. 28.

⁸ P. 37.

⁹ R. 18, p. 27.

¹⁰ R. 18, p. 52.

¹¹ R. 18, p. 61.

¹² R. 18, p. 83.

¹³ R. 18, p. 132.

¹⁴ R. 18, p. 127.

¹⁵ R. 18, p. 132.

¹⁶ R. 18, p. 138.

¹⁷ R. 18, p. 60.

¹⁸ R. 18, p. 6.

¹⁹ R. 18, p. 30.

²⁰ R. 18, p. 38.

²¹ R. 18, p. 33.

Honor of Warrengef, 100*l.* 5*s.*¹

Honor of Earl Giffard, 66*l.* 30*s.*²

A little observation of these facts will give one some insight into the way in which the scutage was applied in actual practice. The churchmen, owing to their peculiar position and principles, were always less inclined to military pursuits than other classes of people. The Scutage first appears applied to them only, and in each of the levies the churchmen pretty generally fulfilled their obligations in this way. The minor barons were, many of them, becoming more and more disinclined to leave their estates and follow the pursuits of chivalry, and the early scutages were almost altogether made up from the contributions of churchmen and minor tenants *in capite*. The honors and baronies which were for the time being "in the king's hand," and placed in the custody of some sheriff or bailiff, owing to the death or displacement of its lord, when there was no successor of suitable age to take immediate possession, were thus temporarily deprived of their natural military leaders. Without the earl or baron it would be difficult to get the quotas of service from a swarm of subtenants who held small fiefs and fractions of fiefs. Ranulf Glanvil confessed that for the honor of which he had the custody he had not been able to find out the number of knights.³ The estates which were accounted for by custodians formed a considerable part of the scutage of Ireland. It is evident that at first the great lay barons had little or nothing to do with paying scutage. In 1159, so far as they were summoned, they seem to have gone with the king on the expedition of Toulouse. In the 11th year, and much more in the 18th year, the great barons to some extent are found paying the scutage. The reasons why the greater tenants-in-chief became inclined to pay scutage may be considered in another connection.

SCUTAGE OF GALWAY.

The only other levy of scutage under Henry II was that for the army of Galway, taken in 1187. The expedition took place

¹ R. 18, p. 53.

² R. 18, p. 54.

³ R. 18, p. 6.

in 1186, and the "scutage of Galwey" is referred to in the Pipe Rolls for that year.¹ The levy, which was put in charge in the summer of 1186, is accounted in the Roll for 1187, like the scutage of Ireland, for the barons or knights "who did not go with the king in the army of Galway." The rate was 20s., the same as in the 18th year. The Pipe Roll for this year is not printed, but for some of the counties Madox gives the most of the items.²

	Scutage, 33 year	Tallage, 33 year
Yorkshire, - - - - -	69 <i>l.</i> 2 <i>s.</i>	364 <i>l.</i> 18 <i>s.</i>
Wiltshire, - - - - -	99 <i>l.</i> 5 <i>s.</i>	140 <i>l.</i> 1 <i>s.</i> 8 <i>d.</i>
Dorset and Somerset, - - -	119 <i>l.</i> 10 <i>s.</i>	

The method of assessment upon both old and new enfeoffments seems not to have been strictly carried out as in the 14th and 18th years. A great number of bishopricks and honors, however, were in the king's hand at the time, and under these circumstances he received the income from all the fees which were upon the several estates. The following quotations will indicate:

"Custodes Episcopatus Saresberiae debent 32*l.* de Scutagio Militum quos episcopus recognoscit se debere Regi.

"Idem debent 8*l.* 10*s.* pro militibus quos non recognoscit se debere regi; qui ideo reddendi sunt quia Honor est in manu Regis."³

"Margareta de Bohun redd' Comp' de 30*l.* 10*s.* de Scutagio Militum Honoris Hunfridi de Bohun, quem habet in custodia per Regem de veteri feffamento.

"Eadem Margareta debet 9*l.* 10*s.* de novo feffamento."⁴

"Laurentius — et Magister Rogerus Arundelredd' Comp' de 20*l.* de Scutagio Militum Archiepiscopatus de Everwic quos Archiepiscopus recognoscit se debere Regi.

"Idem r. c. de 27*l.* 9*s.* 8*d.* de Militibus quos Archiepiscopus non recognoscit se debere Regi; qui idcirco redduntur quia Archiepiscopatus est in manu Regis."⁵

"Id vic' deb 8*l.* 10*s.* de Scut . . . Honoris Peverelli de London de veteri feff' et novo; quia honor est in manu Regis."⁶

¹ Eyton, *Itin.*, 269.

⁴ *Ibid.*

² Madox, *Hist. Exch.*, I, 634.

⁵ R. 33, York.

³ R. 33, Wiltshire.

⁶ R. 1, Ric., p. 24.

Of those who were in possession of their fiefs, some who paid for old and new enfeofments before, are found accounting only for old enfeofments, or in the case of clergy for "*quos recognoscit*," e. g.:

"Id Vic deb 70s. de Scut Roberti de Helion de veteri ff."¹

"Episcopus Norwic de 40s. de Scut militum suorum quos recognoscit se debere Regi."²

Like most of the other scutages that have been considered, this of the thirty-third year was accompanied by a general tallage of towns of the king's demesne and manors which were *in manu*.

OTHER FORMS OF SCUTAGE.

The levies of scutage, which have been thus far considered, were of general application throughout the kingdom, and were taken with special reference to some great military expedition, for which a general summons was issued which placed all military tenants under obligations for service. The expeditions of Toulouse 1159, of Wales 1165, of Ireland 1171, of Galway 1186, are each reported as being large and of general concern. Besides these military operations for which the whole or a large part of the feudal host was called upon, there were a number of minor campaigns which were supported by only partial levies or even the king's household troops. For example, in 1157, there was an invasion of Wales, which is attested by a number of items in the Pipe Roll for the third year.³ It is said that this force was raised by every two knights joining to support a third, so that a third of the whole body took part in the expedition.⁴ A campaign is reported in 1163, when the English army wasted Carmarthenshire.⁵ A continual state of border warfare existed between

¹R. I, Ric., p. 24.

²R. I, Ric., p. 46.

³"Abbas de Abbedesbi redd' Comp' de 2m. arg. de Exercitu Walliae." (R. 3, H. II, 99.)

"In liberatione Archiariorum Regis in exercitu." (*Ibid.*, 89.)

"Pro 500 baconibus et in conductu eorum ad Waliam 52l." (R. 4, H. II, 112.)

⁴Stubbs, C. H., I, 492.

⁵Eyton, Itin., 62.

"In liberacione militum et servientum in exercitu Wallia, per Willielmum de Bellocampo." (R. 9, H. II, Glouc.)

the years 1164 and 1167.¹ The Norfolk Inquisitions contain notices of two campaigns between 1166 and 1170, one in Wales, the other on the continent.²

In 1173 (April) occurred the outbreak of Prince Henry's rebellion, in which Hugh Earl of Chester, Robert Earl of Leicestershire, Robert Earl of Ferrers and others of the Norman-English nobility were participants.³ The king of Scotland also was implicated. Henry was busy suppressing the rebels in Normandy, while in England the Earl of Cornwall and Richard de Lucy, the Justiciar, raised an army called the "army of Leicester," besieged that city and reduced it to ashes.

For operations of this kind the king relied either upon partial levies, his household troops, or foreign mercenaries. The means of raising the force of 1157 was a special device. The first of the two expeditions to Wales in 1165, which have been already referred to, was attended by a levy upon a portion of the entire knight service of the state, for the expedition was of too little significance to be noted by more than one chronicler, and the scutage was taken from very few. Aside from tenants who owed a term of service by virtue of holding certain estates, the king had a body guard who attended him wherever he went. Giraldus tells of the desertion of household troops 1173, on whom Henry specially depended to defend him.⁴ Thomas à Becket is reported to have been attended by a band of 700 knights *de familia* at the siege of Toulouse;⁵ this was far beyond his possible number of tenants. Henry was obliged to depend upon 10,000 or more Brabantine mercenaries, who served him loyally but not for nothing.⁶ One can almost trace the itinerary

¹ Brut., 204-6.

³ Eyton, Itin., 172.

² Red Book of Exch., cclxvii.

⁴ "Hoc ei ad cumulum doloris et desperationis accessit, quod illi quoque quos *cubicularios* sibi milites elegerat, in quorum manibus mortem simul et vitam commiserat, qualibet fere nocte ad filios hostili animo se transferentes, mane requisiti non comparabant." (Gir. Cam., V, 229.)

"Cum decem militibus de privata familia." (*Ibid.*, 223.)

⁵ "Cancellarius de propria familia lectam manum septingentos milites habebat." (Materials His. Becket, III, 33.)

⁶ "Iis quoque qui sibi adhaerere videbantur, in gratiam filii remisiis agentibus

of the King, by the records in the Pipe Rolls of the transmission of treasure to the place where the army or court happened to be. Thus in 1174 treasure was taken across the sea.¹ In 1187 Welsh mercenaries were hired in anticipation of a war in France, and were paid out of the Exchequer.² One is reminded of the distinction that is sometimes made in reference to *l'ost* and *la chevauchée* of France. *L'ost* is the great expedition, the regular army, assembled for an important war; *la chevauchée* is an expedition of little importance and short duration, a military procedure through an enemy's country. For ordinary wars the suzerain addressed only the nobles and those living at no great distance.³

It is generally supposed that before the Scutage was made a general levy it was employed as a means of commutation in individual instances. The scutages of 1156, 1159, and others were of general application, but there are some traces in the Pipe Rolls of the older, individual form remaining. There are a number of curious items which can hardly be explained in any other way.

In the Roll of the second year is the item :

Abbas de Westm' deb. 20l. de Scutagio suo.⁴

This must have been an arrear from a former time and not a payment of the scutage of 1156, for the Abbot accounts for that in another place.⁵ As the *servitium debitum* of the Abbot of Westminster was 15 knights, the payment of 20*l.* signifies a rate of 2*m.* per fee, whereas the rate in 1156 was 20*s.* That is, before 1156 there must have been a scutage of 2*m.* paid either

minus se credens, stipendiari Bribantionum copias, quas Rutas vocant, accersivit, eo quod de thesauris regiis, quibus in tali articulo parcendum non esset, pecunia copiosa suppeteret." (Will. New, 172; Ben. Pet., I, 51.)

¹ "Et in liberacione Esneccae 7l. 10s. quando Radulfus clericus camerae transfretavit cum thesauro. (R. 20, H. II, Southampton.)

² "Et pro ducendo thesauro de Oxineford ad London' ad faciendas liberaciones Welensibus transfretaturis in Normanniam ad regem." (R. 33, H. II, Oxford.)

³ Luchaire, Manuel, 196.

⁵ R. 2, pp. 13 and 63.

⁴ R. 2, p. 92.

by the Abbot of Westminster alone or by a larger number. The payment of the Abbot, however, is the only one of which there is a record remaining. The Abbot was given a respite for this payment, and the money is still due in the nineteenth year.¹

In the Roll of the third year is the item :

Abbas de Abbedesbi redd' Comp' de 2m. arg. de Exercitu Wal.²

As the Abbot of Abbotsbury owed 1 knight, this was a payment of 2*m.* on the fee. It had no connection with the scutage of 1156, as the Abbot also paid that.³ He was the only one who made any such payment for the army of Wales in 1157.

There is ample evidence of scutages exacted by lords of their undertenants independent of any general levy by the king. In the Red Book of the Exchequer are printed certain Inquisitions made in the counties of Norfolk and Suffolk about 1170. Whether there were similar Inquisitions made in other counties or not cannot be told. These returns differ from those of 1166 in that they endeavor to inform the king just how much the undertenants are paying. The earlier inquiries were made of the tenants-in-chief, the latter take the point of view of the subtenant.⁴ Among other aids, such as to discharge the lord's debts, to marry his daughter, or to knight his eldest son, scutages for various armies are referred to since the king crossed the sea in 1166. As many as five armies of Wales were paid for by one tenant,⁵ while most of them paid for not more than two armies of Wales and one "de ultra mare." It is to be presumed that the king permitted the barons to take these scutages in return for their service in these campaigns.⁶ The rate

¹ R. 19, p. 152.

² R. 3, 99.

³ R. 2, 33; R. 3, 99.

⁴ "Haec est inquisitio de manerio Comitis Arundelie in Snetesham, scilicet quod homines sui dederunt postquam dominus noster Rex Anglorum extreme transfretavit in Normanniam," etc. (Red Rook, cclxvii.)

⁵ Red Rook, cclxxix.

⁶ "Hervicus de Ingelose dedit comiti Arundelie de Scutagio . . . per breve Regis de ultra mare, de ultimo exercitu Francie, de quattuor militibus, 4l." (Red Book, cclxxi.)

for the Welsh wars was about 2*m.*, though it was not uniform;¹ that for "the last army of France" was 20*s.*² The Pipe Rolls as well give evidence of desultory scutages paid by undertenants where the estates were held in custody by the king. In the Roll for the nineteenth year, in the accounts of Yorkshire, under the title, "*De Scutag' militum qui non abierunt in Exercitu Legr'*," are two entries:

Rand' fil' Walti redd' Comp' de 29*s.* 8*d.* de eodem Scutagio p' vindictum suum.²

Id' Vic' redd' Comp' de 66*s.* 8*d.* de Scut' libere tenentium de feod' de Wartra.²

No other payments of scutage for the army of Leicester are recorded. Inasmuch as both Randulf and the fief of Wartora paid and were acquitted for the scutage of Ireland,³ there can be no doubt that these payments are not related to those of the former year. As these parties in the eighteenth year paid for $3\frac{1}{3}$ and $4\frac{5}{8}$ knights respectively, one may doubt if these charges are a scutage strictly, but perhaps a fine for failure in fulfilling their obligations. A still stranger item is in the same Roll: the custos for the Abbey of Hyde "redd' Comp' de 15*l.* de Scut' militum de exercitu Scottiae."⁴

The Abbey also paid 15*l.* for the scutage of Ireland.⁴ It is hard to see why anyone should have spoken of the "army of Scotland." The Justiciar was engaged in the siege of Leicester when the King of Scotland, who had been watching his chance, marched down against Carlisle. De Lucy, after taking the town of Leicester, did not wait to besiege the castle, but turned his army northward after the fleeing King of Scotland. The English army passed the Tweed, wasting the country, but was soon called back to defend the kingdom against Hugh Bigod and others who were assailing Norwich.⁵ Do not the instances here given strengthen the hypothesis, already indicated, that the Scutage was intended primarily for church ten-

¹ Red Book, cclxxi.

⁴ R. 19, p. 57.

² R. 19, p. 10.

⁵ Will. New., 177.

³ R. 18, p. 61.

ants and subtenants? The institution generally implies in the first place the rendition by the lord of service or payment to the king, and in the second place the collection in turn of the money from his tenants. That the payments by the lower grades of holders were so common suggests that the custom began with them and thence worked its way to the upper ranks.

CHAPTER III.

EFFECTS OF THE SCUTAGE, AND CONDITION OF KNIGHT SERVICE UNDER HENRY II.

The relation of king to tenant-in-chief had its counterpart in the relation of baron to subtenant. The baron might grant his lands upon terms of whatever kind of tenure and whatever amount of service he chose or was able to impose. He could not rightfully call upon his men to go to war unless he himself was summoned by the king, nor could he demand scutage, except as the scutage "ran through the kingdom," to use a common expression of the day, for the right of private war did not exist in England. One finds where agreements were made between lord and tenant upon the subject, the scutage of the tenant was to be rated in proportion to the scutage of the king.¹ Yet it does not follow that the tenants of barons always paid as much per fee as the rate which was set by the king. When baronies were "in the king's hand" and the tenants paid to the king just as they otherwise would pay to their lords, it may be seen that they did not necessarily pay the same; *e. g.*, on certain baronies in the 14th year tenants were paying 8*s.* 4*d.* for each knight instead of 1*m.*, and in the 18th year they likewise paid $\frac{5}{8}$ of the regular rate.² In 1173 the lands of the Earl of Leicester were seized by the king, and one person who held of the Earl paid 1*m.* for 1 knight, whereas the scutage of 1172 was

¹"Saher concessit Matild' et heredibus suis illos duo solidatos redditus cum omnibus pertinenciis tenendos de se et heredibus suis ipperpetuum reddendo inde annuatim duodecim denarios . . . et ad exercitum Regis ad viginti solidos, quinque denarios et ad plus plus, et ad minus minus." (Feet of Fines, 7, Ric. I, 197.)

²"Rob. de Bellocampo redd' Comp' de 7l. 20d. pro 17 Mil. scl de unoquoque Mil. 8s. 4d. de feodo Comit' de Moret'." (R. 14, 142.)

"Id' redd' Comp' de 53s. 2d. de 6 Mil' et dim. de feodo de Monte Acuto." (R. 14, *ibid*; R. 14, p. 144.)

regularly 1*l*.¹ Perhaps there is some excuse here for the barons having a greater number of enfeofments on their estates than the amount of their *servitium debitum*.

It has been shown how the churchmen and small tenants *in capite* took to the Scutage foremost and most naturally. How was it with the great barons? They began to assign fiefs immediately after the general allotments of the Conqueror, but the process was not spontaneous, but gradual and adapted to individual conditions. The process of division and subdivision went on indefinitely, and the reports of 1166, making a distinction between old enfeofments and new enfeofments, indicate how many fiefs had been created before the death of Henry I and how many since that time. The payments made in 1168 will give an idea to what extent new enfeofments had been created. The *cartae* of 1166 show to what extent the baronies were cut up into quite small holdings. The Earl of Clare rendered account for 131 knights' fees and $\frac{2}{3}$ and $\frac{1}{3}$ and $\frac{1}{4}$ and $\frac{1}{8}$ and $\frac{1}{9}$ and $\frac{1}{10}$ and $\frac{2}{30}$ parts;² the Abbess of St. Edwards in her cartel acknowledged 7 knights, each holding one or two fees, but of new enfeofments there were tenants holding respectively $\frac{1}{2}$, $\frac{1}{2}$, $\frac{1}{6}$, $\frac{1}{6}$, $\frac{1}{8}$, $\frac{1}{8}$, $\frac{1}{6}$, $\frac{1}{6}$, $\frac{1}{4}$, $\frac{1}{6}$, $\frac{1}{6}$ fees.³ Sevenths, twelfths, twentieths of fees are to be met with.⁴ The new enfeofments are more apt to contain such fractional parts than old enfeofments. The *cartae* of 1166 represent the process of infeudation at one stage of its growth. The division of fees was still to go on after that time. These tenures on their face render a presumption that the obligations were not rendered by personal service. In the case of halves and thirds it would have been possible for the holders to combine with one another to furnish a knight, but in the instances cited any rendition of active service would have been a too complex problem. The barons, therefore, were obliged in some degree to accept the services of their tenants in

¹ "Hugo de Berkineol redd' Comp' de 1m. de Scut. p. 1 Milite q' tenebat de Comite." (R. 19, p. 67.)

² R. 14, p. 20, and Lib. Nig., 292.

⁴ Feet of Fines, 7, Ric. I, 56.

³ Lib. Nig., 78.

money. The tenants of integral fees were often as undesirous of doing personal service as those holding fractional parts, and the barons, not finding it practicable to array their tenants, were in turn glad of an opportunity to pay the scutage of the king. It was for the interest of the baron to keep up the military character of his tenants, and to see that persons granted lands were capable at arms. A lord could insert in the charter of a tenant that there should always be persons of knightly rank to perform the service, and the lord might have a choice in the knights whom the tenant would place on his land to perform the service.¹ If a lord was unable to secure the due service of his tenant the case might be tried in the king's court, and the tenant receive a writ to perform his full service.²

In the Fine Rolls of Richard I, which are the earliest records we have of this kind, it is possible to learn the terms upon which barons were granting their lands.

1. Grants in *frankalmoign* to ecclesiastical institutions, that is, "free and quit" of all secular services, had always been made to some extent by both king and lords. Knights' fees as well as other kinds of land were transformed in this way.³

2. To some extent knights' fees were granted on terms of a

¹ 1133-60. "Carta Walterus de Bolebeche, Waltero Abbati de Ramesia et caeteribus abbatibus sequentibus ejusdem loci, donavit terram de Waltona per servitium duorum militum et de hoc pacto Walterus abbas fecit eum securum per duos milites, quos abbas posuit in suo loco, et si aliquis eorum moriatur, alium ponat in loco suo abbas per electionem domini Walteri de Bolebech aut heredis sui. Et si alius abbas venerit, iterum faciet dominum Walterum de Bolebech securum, vel heredum suum, de hoc eodem pacto, per alios duos milites in electione Walteri vel heredis sui, si alios habere voluerit et is forisfecerit, abbas aliquid erga dominum Walterum, unde velit eum implacitare, in curia sua veniet, et faciet ei rectum sicut de laico feodo." (Cart. Ramsey, I, 153.)

² "Henricus (I) Rualloni salutem. Praecipio quod facias abbati Ramesia domino tuo servitium et auxilium quod ei juste facere debes de terra sua, et nisi feceris ipse te justificet per pecuniam tuam donec facias." (Chron. Abb. Ram., 232.)

³ "Concordia facta in Curia Regis intra Robertum de Mortuo Mari petentem et Priorem de Lewwes tenentem de quarta parte uni militis quod praedictus Rob. concessit priori de Lewwes tenere in perpetuum libere et quiete praedictam feodi unius militis cum omnibus pertinentiis suis in Hecgham." (Feet of Fines, 3, Ric. I, 10. See Polluck and Maitland, *His. Eng. Law*, I, 218.)

payment of rent.¹ This represents the general tendency now beginning to exchange knight tenure for socage tenure, yet it does not follow that every knight's fee placed at a rental became a socage tenure. Land was in this way given for the dowry of a daughter for a nominal return.²

Whenever a mesne lord relieved a fief of its obligations to military service or any other kind of service, those services had to be met from the lord's demesne. It was particularly to churches that such immunities were granted, and this process was carried on to such an extent that in the charter of 1217 it was provided that no free man should give or sell so much of his land that from the remaining portion the service which belonged to that fief could not be sufficiently rendered.³

3. To a considerable extent lands were granted for a return both of money and knight service. Such tenures existed as early as Henry I,⁴ but they were not at that time common. By the time of Richard I they were quite numerous.

The knight service in these cases is generally to be rendered by scutage.⁵ It might seem that these holdings were a combination of socage and knight tenure, but they were considered military tenures. Says Bracton, "if he superadd (to a rental) scutage and a royal service, although for one-half penny or a serjeantry, according to what has been said, that may be called a military fief."⁶

A mesne lord often let out his land for a rent "for every service saving forinsec service;"⁷ that is, the tenant paid an annual rent, and was under the obligations of knight tenure

¹ "Praedictus Greg' concessit praedicto et haeredibus praedictum feodum dimid' militis. . . p' decem solidarios annuatim inde reddendos pro omni servicio." (Feet of Fines, 3, Ric. I, 19.)

² Ancient Charters, Ed. Round, No. 12.

³ Second Charter Hen. III, § 39. Sel. Char., 346.

⁴ A grant by the Abbot of Ramsey was for 100 s. and the service of one knight. (Chron. Abb. Ram., 260.)

⁵ Feet of Fines, Ric. I, *passim*.

⁶ Bracton, De Legibus, I, 293.

⁷ "Gregorius concessit praedicto Osberto et heredibus suis tenere pdictum feodum dimid militis cum pertinentiis. . . p' decem Solidos annuatim inde reddendos pro omni servicio. . . Salvo servicio Domini Regis." (Feet of Fines, 6, Ric., 191.)

only when the king called for service.¹ It is not to be regarded that the lords imposed rents as an extra burden in addition to the military service already incumbent on the land.² Lands had to be granted at their market price. It is obvious that rents were becoming the more popular form of obligation with the small holder; there still had to be some means of discharging the duties imposed by the king. The two modes of discharging obligations would naturally adjust themselves. It is obvious that among the small tenants military fiefs were somewhat of an anomaly. The increasing use of the words "carucate," "bovate," "acre," referring to military lands, suggests the agricultural habits of the small military holder.

The subject of the effects of the Scutage may now be taken up. The Scutage of Henry II has been called "a blow at feudalism," and a "disarming of the feudal party." There can be no doubt that the Scutage was one of the strongest anti-feudal influences of the period, but it has not been fairly treated as to the way in which it operated. It has been held that the Scutage broke the power of the feudal party by imposing a heavy weight of taxation.³ It has been clearly shown in this essay that the scutage was at no time as large a contribution as has been supposed.⁴ The money for the great campaigns was usually raised in greater part by other *dona*. In 1156 the *dona* of counties and towns were nearly 2000*l.*, the scutage about 500*l.*; in 1159, out of a levy of 12000*l.*, the scutage was about 2500*l.*; in 1061 the *donum* from the towns was 840*l.*, the scutage

¹ Two bovates held for one pound of pepper, saving forinsec service. (Fines, Ric., 35.) A messuage and 7 virgates held at 24*s.* annually besides royal service of one-half knight. (Fines, ed. Hunter, 274.)

² Polluck and Maitland, Hist. Eng. Law, I, 256.

³ "After the privileged landed proprietors, from the greatest crown vassal down to the lowest, had been subjected to heavy money contributions, which were equivalent to the actual burdens of feudal service, that impediment had been overcome in England which on the continent caused the failure of land and income tax." (Gneist, C. H., I, 214.)

⁴ "But such a measure (the scutage) implies that the whole country was already divided into knights' fees. And for the next two centuries the knight's fee was the unit of reckoning for most military and many financial purposes." (Const. Essays, 57.)

975*l.*; in 1165 the greater amount was raised by the *donum* of the towns, and the *donum* of serjeants; in 1168, when the fairest comparison may be made, besides several other *dona*, the *donum* of the towns was 4500*l.*, and the scutage 4000*l.* The amounts of scutage in the aggregate were not sufficient to support the several expeditions, neither in the individual case was the scutage of a knight equivalent to his actual service, for out of the eight times the scutage was imposed only twice was the rate as high as 2*m.*, which can be considered such an equivalent.

There is no evidence that the Scutage, apart from other *dona*, was considered oppressive under Henry II by the knight tenants. When the churchmen and people complained it was more likely because of the arbitrary tallages, which might well seem unreasonable. The new feature, introduced in the levy of 1168, of charging the barons according to the fees they had created, instead of the amount of service they were accustomed to render, was naturally disliked, and the payments for knights "new enfeofment" or "which he does not acknowledge" were made reluctantly, as we may see in the arrears of succeeding years in the Pipe Rolls. But, on the whole, if the amounts of arrears are a criterion, no tax was more promptly and cheerfully paid. The most potent anti-feudal influence of the Scutage was not the way in which it affected the barons directly. That a few of them were disposed to stay at home at times instead of attending the army made little difference. The way in which the barons themselves extended the system of shield money and rents in return for military lands did the most to take away from the knight tenants their military character. Service in the army and the pursuit of husbandry did not go well together. Influenced partly by the Crusades and the upgrowth of the spirit of chivalry, considerable skill was required of a man at arms. Troops of knights are sometimes referred to by the chroniclers as "*peritissimi milites*," "*lectissimi milites*," "*electa militia*," and it is often worth the while for a chronicler to mention knights by name.¹ The knights were the flower of the

¹ "In Flandria quidam miles nomine Valterus de Fontanis." (Ben. Pet., I, 99.)

army, but the infantry was of considerable consequence. An army regularly consisted of "*milites et servientes*."¹ The army organization was more complex than formerly. The Assize of Arms created three classes of soldiers besides the knights.² The serjeants were employed as cavalry as well as infantry, and the cavalry seems to have been paid three times as much as the infantry.³ Archers were also employed.

Seventeen Brabantine knights were captured "*quorum nomina haec sunt*." (Hoved., II, 51, 55, etc.)

¹ 1165. In Wales: "*multos tamen ex suis tam milites quam pedites perdidit*." (Gervase, I, 197.)

1185. "*Johannes. . . in Hiberniam cum copiosa equitum peditumque multitudine*." (Ben. Pet., I, 339.)

1186. Richard against the Count of Toulouse "*copiosam militum peditumque multitudinem collegit*." (*Ibid.*, 345.)

1187. King. . . "*cum copiosa militum et servientium multitudine venit usque Doveram*." (*Ibid.*, II, 4.)

² Sel. Char., 154.

³ "Et in liberacione 250 *servientum peditum* qui abierunt praecepto Regis ultra mare 16l. 13s. 4d. Et in liberacione 38 *servientum equitum* qui similiter abierunt ultra mare 7l. 12s." (R, 33, Shropshire.)

CHAPTER IV.

SCUTAGE OF RICHARD AND JOHN.

After the time of Henry II it is not possible to scrutinize each levy of the Scutage as could be done with the aid of the Exchequer rolls, but it will be profitable to note the progress of the Scutage as an institution and its effect on the conditions of knight tenure. Under Richard the same administrative methods went on, but there were lacking the vigor and perpetual oversight of his father. The great political officers of the kingdom were quarrelsome among themselves, and the sheriffs were rapacious and corrupt. A *Scutage of Wales* appears in the Rolls for the second year of Richard.¹ The method of assessment for old and new enfeofments seems not to have been carried out. Richard de Muntfichet rendered account of his knights old enfeofment only,² while, in the fourteenth year of Henry II, William de Muntfichet of the same county paid both for old and new enfeofments.³ Most paid simply "*pro militibus suis*." The campaign in question was probably that of the fall of 1189, when Richard sent John against the Welsh. The expedition soon came to an end, as peace was made with the Welsh king at Worcester before the army reached Wales.⁴ This will account for the rate of the levy being so low as 10 s.

The levy of the famous ransom of Richard was collected in the years 1193 and 1194. It would be the most interesting of any levy thus far, but unfortunately the Roll of the fifth year is lost. Some things, however, may be inferred from what has been learned of other levies. The sum to be raised was 100,000*l*.

¹ There is a single item of Scutage "*propter Walens*" in the first year. (R. 1, Ric., p. 5.)

² R. 3, Ric. See Madox, I, 637.

⁴ Ben. Pet., II, 87.

³ R. 14, Hen. II, p. 38.

altogether, but 100,000*m.* was all that was to be attempted before the actual release of the King.¹ The ransom was an occasion for one of the three customary aids, but it was not merely a feudal levy. All the means both of feudal and national taxation were brought to bear.

I. A *scutage*, under the circumstances, would naturally be the first expedient thought of. A rate of 20*s.* on the fee was not above the average. To compare the accounts with those of 1172, William de Warenne paid 14*l.* 5*s.*, the same as Reginald de Warenne in 1172;² William de Dammartin, 20*s.*, the same as Alberic de Dammartin in 1172;² the Abbot of Burg rendered account for 60*l.*, while in 1172 the same rendered account for 60*l.* for knights "*quos recognoscit*," and also 75*s.* for knights "*quos non recognoscit*;"³ the Bishop of Chester, 15*l.*, the same as in 1172; the Archbishop of York rendered account for 20*l.*, while in 1172 he rendered account for 20*l.* and 23*l.* 10*s.* for knights "*quos non recognoscit*;"⁴ Henry de Tilli rendered account for 14*l.* 15*s.* *de scutagio*, while in 1172 William fitz John owes 14*l.* 15*s.* *scutage*, "which ought to be required of Henry de Tilli," and the same owes 20*s.* new enfeofment;⁵ the Earl of Warwick renders account in the seventh year of Richard for 100*l.* 46*s.* 8*d.*, which is the *scutage* of 102½ knights; in the fourteenth year of Henry II the Earl of Warwick rendered account for 102½ knights old enfeofment and for 2 knights new enfeofment.⁶

It is evident that the experiment made in 1168 and 1172 to levy upon all the enfeofments of the barons was not repeated. The charges for "new enfeofments" and for knights "*quos non recognoscit*" had remained nothing but idle records, and nothing is longer claimed for these extra knights. The Churchmen paid according to their *servitium debitum*, just as in the earlier

¹ Hov., III, 215.

⁶ Madox, *ibid.* R. 14, Henry II, p. 59.

² Madox, I, 590. R. 18, Henry II, p. 30.

³ Madox, I, 591. R. 18, Henry II, p. 37.

⁴ Madox, *ibid.* R. 18, Henry II, p. 61.

⁵ Madox, *ibid.* R. 18, Henry II, p. 76.

scutages, while the lay tenants paid for "old enfeofments," according to their *cartae* of 1166.

As to the amount which was raised by this scutage, Stubbs says, "the sum thus levied must have amounted to not less than 25,000 *l.*, if rigorously collected; but it was probably assessed on the old system, and if so would not amount to more than 12,000 *l.*"¹

The words of the great historian indicate a singular misapprehension, not only of the levy in question, but of the scutage in general, as it existed under Henry II. In the first place, if one will notice the statistics given in connection with the aid of 1168, it will appear at a glance that the difference between the amounts under the old system of collecting and the new was nothing like the ratio of difference between 25,000 *l.* and 12,000 *l.* The new system affected only the tenants of the upper class, and with them the amounts which they had to pay under the new arrangement would not on the average compare with those under the old in a ratio of 2 to 1, but rather, if I may hazard such a conjecture, in the ratio of at most 5 to 4. In the second place, the figure 12,000 *l.*, to say nothing of 25,000 *l.*, is far above what any scutage could possibly be. It will be remembered that the aid of 1168 was the most extensively applied and most rigorously collected of any scutage that has thus far been levied. The amount was 4000 *l.*, the rate being 1 *m.* Therefore, if the collection of the ransom was as thoroughly carried out as was the aid to marry the daughter, the total amount would have been between 5000 *l.* and 6000 *l.* But nothing can be more certain than that the imposition was not carried out conscientiously. The sheriffs in office were a corrupt class of men. William of Newburgh may refer to the sheriffs when he lays the blame for the insufficiency of the returns upon the "fraud of the executors."² Aside from this a large number of barons were acquitted by writs, by virtue of their seats in the Exchequer, while others were acquitted by the king himself on the ground of having accompanied the king

¹Stubbs, *Pref. Rog. Hov.*, IV, lxxxiv.

²"Quod accidisse creditur per fraudem executorum." (*Will. New.*, Lib. IV, c. 38.)

in an army of Normandy.¹ For example, in Norfolk and Suffolk, the Earl of Clare, the Earl of Arundel, Robert de Tresgoz, the Bishop of Ely were thus acquitted; in Yorkshire, knights to the value of 162*l.*; in Warwick and Leicestershire, the Earl of Chester, Earl David, Hugh of Say, the Earl of Ferrers, the Earl of Albermarle, Richard Basset, William de Longchamp, Robert Marmion, etc. As these persons were some of the chief barons who had the largest number of knights, it is at once evident how the total amount was considerably reduced. According to the transcripts of the Rolls made in the Red Book, the entire sum of the scutage recorded for the ransom was about 3432*l.*, exclusive of the exemptions. Hoveden speaks of four special officers being appointed as guardians of the ransom.² It is hardly to be supposed that any scutage could have been raised outside the ordinary process of the Exchequer.³ A part would not have been accounted for at the Exchequer, and another part in some other way. The conclusions thus reached harmonize with the general view of Stubbs, that "the scutage of 1194 would produce no more than those of Henry II's reign;"⁴ only Stubbs misapprehended the scutages of Henry II.⁵

II. A *hidage* or *carucage* at a rate of 2*s.* on the hide or carucate was levied on lands other than military. The amount is said to be 5000*l.*, or nearly the same as the ancient Danegeld. The tax may be regarded as a revival of the principle involved in the Danegeld, and was levied according to the hidage assessments of Domesday. It did not exist in the donums of Henry II, as Stubbs has supposed.⁶ It has been the effort in the first part of this essay to show that the various donums of Henry II were at first arbitrary assessments upon classes of people and lands other than military. These prepared the way for a system of taxation upon such lands according to a fixed principle, as in the hidage.

¹"Iti habent Quietantiam per Regem, quia fuerunt cum eo in exercitu Normanniae." (See Madox, I, 591.)

²Hoved., III, 212.

³Stubbs, Pref. to Hov., III, 83, note.

⁴*Ibid.*, p. 84, note 1.

⁵See Preface Ben. Pet., II.

⁶Hov. Preface, 84.

III. The grant of *one-fourth* of the revenue and mobilia on the part of all persons, clergy and lay, comprised the largest part of the money required. It is not possible that an actual fourth was raised, as there was no adequate method of assessment of a man's wealth by a jury, as in the case of the Saladin tythe; but thenceforth large subsidies were to be raised by this kind of taxation.

IV. All the *wool* of the Cistercians and Gilbertines.

V. The gold and silver implements of the churches.¹

It was perhaps because of the unusual character of such a demand that Richard in his letter to England asking for aid, while not directing any of the other forms of levy, especially enjoins that of the gold and silver of the churches.²

There is a passage in William of Newburgh which has caused difficulty of explanation, wherein he states that a first collection of the aid was found insufficient, and the ministers resorted to a second and again a third collection.³ As to what is meant by a first, second, and third collection some light is given by a roll of the Curia Regis for 1194.⁴ In September of that year justices itinerant were sent out to try pleas, with the aid of a jury in each hundred, and among other things they were given directions to ascertain "concerning all the aids given for the ransom of the king, how much each one promised, how much he has contributed, how much he is in arrear."⁵ The justices rendered their reports on the aids for each hundred visited. As an example of these reports:

"*Summa primi auxil.*, 33l. 18s. 4d. Adam clericus vicecomes recepit.

Summa secundi auxil., 12l. 10s. quos Thom. clericus recepit.

Summa hidagii, 7l. 14 sol. quos Thom. clericus recepit.

Summa Totius, 54l. 2s. 4d."⁶

¹ The analysis is taken from Stubbs' Preface to Hoveden, III, with amendments and additions.

² Hov., III, 209.

⁴ Pipe Roll Soc., vol. 14.

³ "Denique propter hanc primae collationis insufficientiam, ministri regii secundam tertiamque instaurant." (Will. New, Lib. IV., c. 38.)

⁵ "Item de omnibus auxiliis datis ad redemptionem domini regis, quis quantum promiserit, et quantum reddiderit, et quantum a retro sit." (Hov., III, 263.)

⁶ R. Curia Regis (Ed. Maitland), 78.

This is the form which generally appears for each hundred, but a few variations of form give additional information. The first aid was certainly the fourth, as it is sometimes called such; e. g., "*Summa primi auxilii de Quarto*."¹ The hidage is also called the third aid or tallage.² The second aid is harder to define. It was not a scutage, for in some hundreds the scutage return is given, and the second aid bears no relation to it;³ neither is it another levy of the fourth or hidage, for it bears no constant relation to either. The second aid is once given in this form: "*Summa de assisa decem solidorum, 5m.;*"⁴ and again, "*De 10 sol, et eo amplius*."⁵ *Assisa* is an old word which sometimes appears instead of *donum* in the Rolls of Henry II. Evidently there is some form of *donum* in the "second aid" which is not mentioned by the chroniclers, and so does not appear in the scheme given above. It was something based on an assessment of "10*l.* and upward," whether in land or other property.⁶ It may have been a special imposition upon the richer class. William of Newburgh speaks particularly of the rich being despoiled.⁷ It will be remembered that in the aid of 1168 there was a special *donum* "*de promissione*" on the part of the richer ecclesiastics and some others. This levy, however, was of a more general character.

Only in several instances do the reports say anything about the scutage.⁸ It cannot be known to what extent scutage accounts were rendered in the year 1194, but very many were not rendered till the following year. The facts as here given indicate that the ransom was raised, not by a variety of contributions all levied at once, but by a succession of impositions extending over two years and more. First was the fourth, then the "10 shillings and upward" tax, then the hidage, the scutage, and finally the gold and silver of the churches.⁹ Not all of the

¹ R. Curia Regis (Ed. Maitland), 108. ⁵ *Ibid.*, 91.

² *Ibid.*, 108.

⁶ See Introd. of Roll of Curia Regis (Ed. Maitland).

³ *Ibid.*, 109.

⁷ "*Quosque locupletiores pecuniis spoliant*." (IV, 38.)

⁴ *Ibid.*, 95.

⁸ R. Cur. Reg., 86, 109.

⁹ "*Postremo ad vasa sacra ventum est*." (Will. New, *ibid.*)

ransom, but probably the greater part, was raised in England.¹ Under Richard there were a second and a third scutage of Normandy, assessed in the years 1196 and 1197 for campaigns taking place respectively in 1195 and 1196. The carucage of 5s. in 1198 is said by Stubbs to redress the balance of taxation between tenants in knight service and tenants in socage.² The Oxford debate of 1198 has already been referred to. The question of liability to foreign service on the part of the Bishops of Lincoln and Salisbury was raised, but there was in the resistance of Hugh of Lincoln no refusal of a scutage demanded by the king.

The question may be asked, how far the crusade of Richard and Philip Augustus affected England in respect to knight tenures and knight service. The chivalric king was continually sapping the country for sums of money to support his military enterprises, and the ransom took still more. In 1188 probably most of the barons and a large number of the knights of England put themselves under obligations by vows to go on the crusade.³ If there had been a general exodus of the knighthood of the kingdom it would certainly have had a great effect upon the economic condition of the country. But it does not appear that a large number of Englishmen took part in this great expedition. The king obtained from the Pope permission to release whomsoever he chose from their vows, and this he employed as an expedient for getting money.⁴ A number of prominent men in England, such as Ranulf Glanvil, Roger Glanvil, Archbishop Baldwin, the Bishop of Norwich, the Bishop of Salisbury, the Archdeacon of Colchester and others,⁵ went with the king, in some cases because they could not pay for a release. But the most of the barons paid for licenses to stay at home. The crusading fleet which accompanied Richard is said to have consisted

¹ *Similiter factum est per omnes terras regis transmarinas.*" (Hov., III, 225.)

² Stubbs, *Pref. Rog. Hov.*, IV, 92,

³ *Ben. Pet.*, I, 336.

⁴ *Rex obtinuit ab eo (Pope) litteras patentes ut quoscunque ipse vellet dimittere ad terras suas custodiendas, essent quieti a captione crucis, et ab itinere Jerusalem unde ipse sibi inaestimabilem acquisivit pecuniam.*" (Hov., III, 17.)

⁵ Hov., III, *Preface*, 28; *Mem. Ric.* I, 93.

of 37 capacious vessels,¹ not a large number certainly compared with the fleets ordinarily used to convey armies to the continent. Of the men who thus embarked, we may well believe from the encouragement given to enlistments, and the subsequent conduct of many crusaders, that a considerable part of Richard's following were of the more doubtful classes of society.² In the conduct of the crusade the leaders that are noticed by English writers are mostly not men of England. Over the English fleet were placed in command the Archbishop of Auxerre, the Bishop of Bayeux, Richard of Camville, William de Forz de Wheran, and Robert of Sablul, only two of whom were men of England. In the matter of tenures, it is not possible to discern that the third crusade, which was the first in which England had a direct interest, made any difference. The general tendency of the times, the gradual assimilation of lands held by military tenures to those held by rents, was already under way before the time of the crusade, and was not particularly affected by it. If there had been any considerable departure of knights from the country they would have been likely to try to dispose of their lands, and the putting of many knights' fees at one time on the market would have caused a fall in the price of such lands. The tendency was just the opposite, however. In spite of the considerable outpourings of money for the crusade and the ransom, there is perceptible a general rise in value of land as well as prices. Knights' fees were being disposed of, generally at a rental superimposed on the military obligations. The fad of holding tournaments, common at that time, was an outgrowth of the crusading spirit. The increase in the wages paid a knight at arms may have been partly encouraged by the crusades. Yet the general upward tendency of prices bespeak an economical development quite independent of any crusade.³

There were but three scutages under Richard, besides that

¹ R. Diceto.

² "Quidam hominum qui in comitatu Roberti de Sablul et Ricardi de Camvilla venerant, malefactores erant et perversi." (Hov., III, 35.)

³ Compare Thompson, *Development of the French Monarchy*, p. 80.

for the ransom. Under his successor there were eleven assessed. John was crowned in May 1199, and in the Pipe Roll for the first year is recorded a scutage entitled "*de primo Scutagio post Coronationem Regis.*"¹ There was no regular military expedition for which a scutage might properly be levied, but in June John went to Normandy, concluding a truce with the King of France.² There were fines paid by some who failed to accompany the King in this passage to Normandy.³ It was unusual for scutages to be recorded in the same year that they were assessed, and the object of the levy was generally made more definite.

This scutage of 2*m.* was raised upon an assessment of old enfeoffments only, and in the case of churchmen for the knights "*quos recognoscit.*" The Archbishop of York paid 40*m.*, the old *servitium debitum* being 20 knights; the Bishop of Durham paid 20*m.* for the 10 knights of his *servitium debitum* instead of for the 70 knights which he had enfeoffed; William de Mobray rendered account for 176*m.* for 88 knights, which is about the same as the old enfeoffment rendered by Roger de Mobray in 1168, who paid for 88¼ knights besides over 11 knights new enfeoffment.⁴ So that new enfeoffments were not paid by the barons.

There were six scutages of Normandy levied in successive years:

For a campaign in 1201, enrolled	1202 @ 2 <i>m.</i>
" " " 1202, "	1203 @ 2 <i>m.</i>
" " " 1203, "	1204 @ 2 <i>m.</i>
" " " 1204, "	1205 @ 2½ <i>m.</i> ⁵
" " " 1205, "	1206 @ 2 <i>m.</i>
" " " 1206, "	1207 @ 20 <i>s.</i>

These exactions were more frequent than ever before, but the rate 2*m.* was the same as in 1159 and 1161, although a chronicler states it had never been over 20*s.* before.⁶

¹ Red Book, 10.

² Hoved., IV, 93.

³ "De hiis qui finem fecerunt pro Passagio suo." (Madox, I, 638.)

⁴ Madox, I, 263; R. 14, Hen. II, p. 87.

⁵ The Red Book gives the rate 2*m.* (See Doc. Scot., I, 64.)

⁶ Rad. Coggeshale, Sel. Char., 272.

The particular grievance on account of these levies was not the high rate or the frequency of the demand, so much as it was the specious occasions for raising them. Under Henry II and Richard scutages had been raised always with reference to *bona-fide* military expeditions, and generally campaigns of considerable import, for which a general summons had been issued, and as large a force as possible actually marshalled. The summonses and campaigns of John were often mere pretexts for raising money, and the military operations were trifling, if carried out at all. In 1201 the king assembled an army at Portsmouth to cross into Normandy. But the King of France, on hearing of this, gave up the sieges he had undertaken. John sent home again most of the army, first taking from each man the money he had brought for his personal expenses.¹ In 1202 and 1203, having reached Normandy with an army, the king remained engaged in idle pleasures, indisposed to fight. The barons left him in disgust. This act on their part the king considered a desertion, and made it the pretext for an extortion of one-seventh upon the mobilia of the barons.² In 1205 a large army was collected at Portsmouth to cross into Normandy. A large fleet and many sailors were ready to convey the forces, but it was decided in a council that only a small force should cross over. With the smaller following, however, only a feigned start for France was made, the vessels being made to change their course and return to Warham. The king offered a pretext that the barons and knights refused to follow him, although one writer says that never were soldiers more eager for war.³

The expedition to Wales in 1211 was equally a farce, for the King, hearing that the barons were planning an insurrection, dismissed his army and betook himself to Nottingham castle.⁴ In the light of these abuses it is easy to understand the article in the charter of 1217, that "Scutage shall be taken just as it used to be in the time of Henry our grandfather."

It is stated that in the year 1204, an assembly at Oxford

¹ Hov., IV, 160-163.

³ Mat. Par., II, 290; R. Cog., 153, 154.

² Mat. Par., II, 282.

⁴ Rad. Cog., 164.

granted a scutage of $2\frac{1}{2}$ *m.* as a special aid. This is notable as being the first instance that such a tax was said to be granted to the King by the barons. In connection therewith was a *donum*.¹ The remaining scutages of the reign were :

For an expedition to Ireland,	1210,	enrolled	1211 @ 2 <i>m.</i>
" " " " Wales,	1211,	"	1212 @ 2 <i>m.</i>
" " " " Scotland,	1211,	"	1212 @ 2 <i>s.</i>
" " " " Poictou,	1214,	"	1215 @ 3 <i>m.</i> ²

It is quite evident that the knights' fees were assessed in the same manner as under Richard, that is, upon old enfeofments according to the returns made under Henry II.³ Thus, in the Pipe Roll of the 13th year of John, for Yorkshire, Robert de Turnham owes 31 *l.* 10*s.* for 31 $\frac{1}{2}$ fees of William Fossard's fee. In 1168 William Fossard rendered 21 *l.* for 31 $\frac{1}{2}$ knights.⁴ William de Mobray was discharged for 88 $\frac{1}{4}$ fees; in 1168 Roger de Mobray accounted for 88 $\frac{1}{4}$ knights old enfeofment;⁵ Richard de Perci for 15 fees of one-half William de Perci's honor, and William Briwere 15 fees of the same honor; in 1168 William de Perci accounts for 30 knights;⁶ Geoffrey Lutrel for 7 $\frac{1}{2}$ fees of one-half Wm. Paine's barony; in 1168 William Paine accounted for 15 knights old enfeofment;⁶ Roger de Lacy for 43 $\frac{3}{4}$ fees; in 1168 Henry de Lacy renders account for 29 *l.* 3*s.* 4*d.*⁷

The clergy paid for the knights "*quos recognoscit*," which was the same as the old *servitium debitum*. The Prior of Coventry repeatedly renders account for 20 *m.* on 10 fees, the same as under Henry II.⁸ Likewise the Abbot of St. Albans for 6 fees. In the case of custodies the rating of 1166, both for old and new enfeofments, was taken; *e. g.*, Roger, constable of Chester,

¹ "Convenerunt ad Oxoniam rex et magnes Angliae; ubi concessa sunt regi auxilia militaria, de quolibet scuto scilicet duae marcae et dimidia. Nec etiam episcopi et abbates sive ecclesiasticae personae sine promissione recesserunt." (Mat. Par., 484; Madox, I, 605.)

² Red Book of Exch., 12.

³ Doc. Scot., I, 84.

⁴ R. 14, H. II, 87.

⁵ R. 14, H. II, 87.

⁶ *Ibid.*, 88.

⁷ *Ibid.*, and Doc. Scot., I, 84.

⁸ Madox, I, 639.

owes 47*l.* 5*s.* for 47¼ knights' fees of the fee of Richard Muntfichet, whose heir he has in ward; and 14*s.* of half a fee and ⅙ of a new enfeofment;¹ in 1168 William de Muntfichet accounted for the same number of knights, 31*l.* 10*s.* old enfeofment, and 9*s.* 4*d.* new.²

The fact that the barons did not have to answer to the king for their full enfeofments did not preclude them from receiving the full emoluments of all the fees they might create. An interesting case, bringing up this question, was tried in the king's court in 1196. The abbot of St. Edmunds' *servitium debitum* was 40 knights, but he had as many as 50 upon his estate.³ He claimed to have the scutages, aids and the like, of 50 knights, while his tenants claimed that the 10 extra knights should not render service to the abbot, but support the 40 knights, and that such had been the custom. The tenants probably had this much of right on their side that in rendering active service the forty knights would not always be the same, and groups of ten in rotation would be relieved. After the abbot had been put to considerable annoyance, as it not infrequently happened that undertenants had some success in resisting the demands of their lords, it was decided by the Justiciar that "each knight should answer individually for his own tenement."⁴ This ended any claim of collective obligation on the part of the tenants.

A question closely allied to the liability of scutage is that of the obligation to foreign service, which now became a mooted one. There is nothing inherent in the English constitution during the feudal period which precludes the obligation of foreign military service as well as domestic service. The issue was not thought of under the Norman kings. William II even gathered together the fyrd at Hastings to take across the sea. Though the plan was not actually carried out, the obligation to go was not questioned. Likewise in 1177 Henry II was prepared to take his English baronage across to Normandy, though the

¹ Pipe Roll, 13; Doc. Scot., I, 85.

² R. 14, H. II, 38.

³ There were 52½ knights accounted for in 1168. (R. 14, H. II, 22.)

⁴ Chron. Jocelin de Brakelonda, 48.

necessity for it was averted.¹ The idea that they were not obliged to serve abroad took hold of the barons slowly under the new conditions. Under Henry II and Richard the custom of levying scutages after such campaigns made it possible for many of the barons to remain at home at such times, and so perhaps less inclined to serve abroad. In 1197 the Bishops of Lincoln and Salisbury resisted a demand for foreign service upon the ground of some prescriptive rights of their respective churches.² In 1201 the barons gathered at Leicester in common council decided that they would not follow him abroad unless he rendered them their rights.³ There does not appear any basis of law for this refusal; nor is it likely that the barons thought there was, except that it was only fair that the king should perform his part if they were to perform theirs. In 1205, when a large assembly had been brought together, the Archbishop of Canterbury and William Marshall, who had just come home from abroad, tried to dissuade the king from his undertaking, showing that the king of France was better prepared than he, that it would be unsafe for him personally, and impolitic in behalf of the state. The barons in council took the question up, and the king felt himself obliged to yield to their objections and not send the whole army to France.⁴ In 1214 was the first time that a question of law was raised between king and barons upon the obligation of foreign service. Upon the levy of scutage for the expedition to Poitou some of the northern barons, who would naturally have had less interest than others in continental affairs, claimed that for lands held in England they were not obliged to serve outside the realm. It is noteworthy that they placed the obligation to scutage upon the same footing.⁵ The barons had the better

¹ Stubbs, C. H., I, 524.

² Round, Feud. Eng., 528.

³ "Mandaverunt regi quod non transfretarent cum illo, nisi ille reddiderit eis jura sua. Rex autem . . . petebat ab eis castella sua." (Hov., IV, 161.)

⁴ R. Cog., 153.

⁵ "Dantibus enim illud (scutage) plurimis, contradixerunt ex aquilonibus nonnulli, illi videlicet qui anno praeterito regem ne in Pictaviam transiret impedierunt; dicentes se propter terras quas in Anglia tenent non debere regem extra regnum sequi, nec ipsum euntem scutagio juvare. E contrario, rege id tanquam debitum exigente,

reason, but the king had the precedents on his side.¹ None of these disagreements between king and nobles received a satisfactory solution at the time. Every instance of opposition, however, was an encouragement to another. The fact of the loss of Normandy to the English crown in 1204 could make no difference as to the legal situation, for the king did not acknowledge that Normandy was not his rightful possession as much as ever. It made a great difference, however, in the degree of interest in Normandy felt by the English baronage, and the connection between families on either side of the Channel.

Although it had become quite customary with the Angevin kings to remit military obligations by levies of scutage, and to carry on their military operations to a greater or less extent by the employment of Flandrine, Brabantine, Welsh, and other mercenaries, and although landholding was visibly coming to be less and less on a soldierly basis, it would be a mistake to suppose that it was a policy of these kings to break down the feudal military system, and that they purposely set about to establish some other system. The documents relating to land grants are fairly copious under John, and there are numberless instances like the following:

"Sciatis quod dedimus dilecto et fideli nostro Rob. de Veteri Ponti West-miland ad se sustentandum in servicio nostro." (1205.)²

"Praecipimus . . . quod facias habere Thom. de Erdington 15 libratas terrae extensas in manerio in W. cum pertinentiis . . . quas ei dedimus ad sustentandum se in servicio nostro." (1205.)³

"Terram . . . quam dominus Rex ei concessit ad se sustentandum in servicio suo quamdiu ei placuit." (1216.)⁴

It did not necessarily follow that one who was a knight in England held land for which he owed service.⁵ Throughout the

eo quod in diebus patris sui et patris sic fieret; res ulterius processisset, nisi legati praesentia obtulisset." (Wal. Cov., II, 217.)

¹ Stubbs, Pref. W. Cov., II.

³ Rot. Claus., I, 19.

² Rot. Claus., I, 27.

⁴ *Ibid.*, 282.

⁵ See Writ for the levying of a force to defend the kingdom: "Et si quis miles vel serviens vel alius terram tenens inventus erit, qui, etc. . . . Si qui vero milites, servi-entes, vel alii qui terram non habent, inventi fuerint, etc." (Sel. Char., 281.)

reign of John there was a continual infeudation of lands on terms of knight service, particularly in Ireland,¹ and to a considerable extent in England. The terms of a grant to a person were often expressed "to sustain himself in our service," or "as long as it was pleasing to him to sustain himself in the king's service."² Those who were in the king's service were allowed special privileges, particularly respite for their dues at the Exchequer, *e. g.*:

"Mandamus vobis quod ponatis in respectum demandam quam facis Henr' fil' Com' de debito quod nobis debet quamdiu idem Henricus fuerit in hoc exercitu nostro modo summonito cum equis et armis par praeceptum nostrum." (1205).³

The king places the property of one who is in service under the special care of his officer, *e. g.*:

"Rex Justiciario Hiberniae . . . ducimus eum (Hugh de Lacy) cum corpore nostro in servitium nostrum unde vobis mandamus quod sicut nos diligitis terram suam et omnia sua custodiatis mantineatis et defendatis sicut nostra dominica," etc.⁴

The king paid a man a yearly income for his homage and service, *e. g.*:

"Sciatis quod dedimus Willelmo de Wika pro homagio et servicio suo 10m. percipiendas annuatim."⁵

Various liveries were paid to secure men for the king's service, *e. g.*:

"Rex Gef' fil' Pet. . . . mandamus vobis quod faciatis habere de Wigorn' 20m. ad preparandum se ad veniendum in servitium nostrum."⁶

In some instances other obligations of a tenure were removed, provided the tenant did knight service. Thus:

"Johannis . . . Sciatis nos concessisse et hac presenti carta confirmasse quod Wills de Moriston et heredes sui post eum teneant de nobis et heredibus nostris in perpetuum totum tenementum suum quod de nobis et de ancestoribus nostris tenuit in hundred de Midelton p' 50 sol. p' annum et qui-

¹ Rot. Chartarum, I, 19, 30, etc.

² "Terram . . . quam dominus Rex ei dedit quamdiu fuit in servicio suo." (Rot. Lit. Claus., I, 280.)

³ Rot. Lit. Claus., I, 30.

⁵ *Ibid.*, 37.

⁴ Rot. Lit. Claus., I, 37.

⁶ *Ibid.*, 19.

busdam aliis serviciis in gavelcunde, faciendo in amore nobis et heredibus nostris servicium feudi unius militis p' omni servicio," etc.¹

As the instances cited are not taken from the years of the rebellion against John, they may be taken to fairly represent the condition of the military service of the time.

At the time of Henry II a scutage of 2 *m.* might be considered a fair equivalent for the service of a knight for 40 days. Until about the time of John the payment of a scutage, when permitted, was considered a complete acquittal of the obligation of serving in the army and leading one's contingent of followers. At the beginning of the 13th century, however, the wages of a knight in the field had risen far beyond what the highest rate of scutage could pay for. In 1198 the Abbot of St. Edmunds hired knights at the rate of 3 *s.* a day.² Many knights of Flanders were given by John 3 *m.* or 5 *m. de dono* for a term of service.³ Perhaps the average cost of a knight is found in the writ of 1205, which directs nine knights to find a tenth at a livery of 2 *s.* a day.⁴ A select body of knights is referred to as *solidati milites*.⁵ The custom of levying scutage had not come to such a pass that a tenant could claim as a right the fulfillment of his military obligations by scutage—except as such a right had been specifically granted, particularly in the charters of undertenants. The feudal law was still in force that one who failed to obey his summons was guilty of a default and might suffer forfeiture or pay a fine. The king, therefore, after an expedition, had a right to demand fines of those who had not attended, aside from scutage. In the 8th year of Richard the Prior of Coventry paid a fine of 25 *l.* "for not crossing the sea and for having the scutage of 25 knights."⁶ At most of the levies of scutage there are accounts of fines as well, and in the rolls there are titles *de finibus et scutagiis militum*. In 1199, soon after his coronation, John passed over into Normandy.⁷ No scutage was raised in reference to this

¹ Rot. Char., 1199, p. 31.

² Jocelin (Cam. Soc.), 63.

³ Misae Roll, 14 y.

⁴ Sel. Char., 281.

⁵ R. Cog., 155.

⁶ Madox, I, 638.

⁷ Hov., IV, 92.

excursion,¹ but there were fines *pro passagio* paid by some who did not follow him. Ralph Musard rendered 10 *m. pro passagio suo*.² Such a fine had no connection with the number of knights' fees. In 1168 Hascuil Musard paid for 12 knights.³ Of knights' fines of the second scutage Walter fitz Gilbert accounts for 10 *m.* for 3 knights' fees.⁴ It has been shown that the barons in rendering their scutage paid for old enfeofments only. So that in collecting from their undertenants the barons would have as profit the returns from new enfeofments, if there were any. But it was likely they had to pay fine for collecting the scutage from their men, in case they had not merited it by actual service. The Prior of Coventry, who regularly paid scutage for 10 knights, paid a fine of 25 *l.* for not having crossed the sea and for having the scutage of 25 knights owing him. Ralph, son of Stephen, rendered account of 40 *m.* "for passage and for having his scutage."⁵ The idea was that a lord should have the scutage of his tenants to support him in war, but that he could not have that scutage merely for his pecuniary gain. When the baron had made his settlement with the king, he was given permission to levy the scutage of his tenants, often by a writ to the sheriff like the following: "King to the Sheriff of York.—We direct you that you permit the scutage of William de Albeny for the knights' fees which he holds of us *in capite* in your bailiwick to be collected by the hands of his bailiffs, since he will answer to us therefor, and do you let us know the amount of the scutage."⁶ Sometimes the scutage of undertenants was collected by the king's officers. In the 16th year of John are numerous writs directing sheriffs to collect and account for the scutage due from persons specified, or to permit such scutage to be collected by the hands of the persons entitled thereto.⁷

¹ R. I, Jn.; Madox, I, 638.

² Unless the scutage of that year designated "first after the coronation" was because the passage to Normandy.

³ R. 14, H. II, 99.

⁴ Pipe R., 3; John Northumberland, Doc. Scot., I, 53.

⁵ Madox, I, 538.

⁶ Close Roll, I, 43.

⁷ Scutage Rolls; see Bird, Genealogist, 1884.

Thus the policy in which the administration of Henry II had seemed to fail was in fact carried out. It had been found impracticable to charge the barons according to their entire number of enfeofments, and so remove at once the feudal character of the levy. But the same results were practically brought about in another way. If the crown, being well informed of the resources of a baron, could exact from him in connection with the scutage what was called a fine, or a payment *in camera*, according to his ability to pay, the baron could no longer be the gainer by the operation of the levy.

In the years 1210-12 inquisitions were made throughout the kingdom concerning the services of knights and others holding *in capite*. The method was quite different from that employed in 1166. Then the returns were made by the barons according to the number of fees in their baronies; now the returns are made by the sheriffs according to the holdings in their respective counties. The reports for different counties vary. Some name all the tenants of a barony or tell how many fiefs they possess, as in the case of the archbishoprick of Canterbury and the bishoprick of Salisbury; while most indicate the services owing the king.¹ The object of the inquisitions was not to introduce any new method in the assessment of scutage, for in the succeeding years the payments of the barons will be found to be made according to the *cartae* of 1166. For example, the Earl of Warwick is reported for Warwickshire with 98 knights;² in the 14th year of Henry III the Earl paid for 102½ fiefs, the same as in 1168.³ The main purpose, therefore, was not to ascertain the resources of the barons, but to determine the tenants, and particularly the small tenants, for whom the sheriffs were to answer. So that lists are given of tenants in serjeantry and of those holding "lands without service"⁴ and of those holding lands "whose services are not known."⁵

From the data that have been brought out relating to the

¹ Red Book, 469 *et seq.*

⁴ Red Book, 530.

² Red Book, 549.

⁵ *Ibid.*, 534.

³ Madox, I, 640.

Scutage under Richard and John it is perfectly clear that a levy of scutage was then of no greater relative importance than under Henry II. This fact has not been clearly understood.¹ Under John the levies were more frequent than formerly, and the average rate was higher, but the basis of assessment was the *Cartae* of 1166. The levies were not executed with any such rigor as those of 1168 and 1172, for the assessments were upon old enfeoffments only. The documents show also a great number of acquittals for scutage. The remittances of the ransom have been referred to; for the scutage of Scotland of 1212 it seems as if the most of the greater tenants in Yorkshire, Essex and Hertfordshire, Northumberland were discharged by writs.² So that the actual amounts attained even with the higher rate would not be materially greater than under Henry II.

In Magna Charta it is laid down that no scutage or aid should be levied unless by the common council of the realm, except for the three regular aids.³ There has been but one instance thus far where a scutage was plainly granted by the barons. In the future this rule was at times to be adhered to, at other times not, but the law once laid down could not fail to have a strong influence. Unless the king was himself strong and had a good cause, the consent of the barons must be invoked. It was also provided that no one should be distrained to do more service from a knight's fee or other free tenement than was due from it.⁴ At times a service of 80 days in a year had been asked for under Henry II and John, and two scutages were imposed in one year.⁵ This did not happen more than once again. In the Charter of Henry III of 1217 it was understood that scutages were to be levied only for *bona-fide* expeditions.⁶ In reference to the 44th article of the charter of 1217 Stubbs says: "The exact force of the clause is, however, uncertain; if, as may be thought, it was

¹ "Among the manifold sources of revenue under the Crown, undeniably the most important for the future of the Exchequer and the Constitution was the *Scutagium*." (Gneist, C. H., I, 214.)

² See Doc. Scot., I, 83 *et seq.*

³ Magna Charta, Sec. 12.

⁴ Magna Charta, Sec. 16.

⁵ R. II, Henry II.

⁶ Sel. Char., 345, § 44.

to restrict the amount of scutage, it was a concession on the part of the crown; if it means that scutages should be taken without asking the *commune concilium*, it was a retrograde act." The explanation already presented, that scutage should be levied only upon adequate occasions, finds this much plausibility that in this sense the new restriction was timely and was subsequently heeded, whereas in either of the other senses it was a sheer dead letter.

The period of John presents a transition in the development of the Scutage. On the one hand, the king becomes more dependent on his barons for the levies of scutage imposed throughout the kingdom; on the other hand, by the system of fines and a close supervision through the courts and Exchequer of the relations existing between tenants and mesne lords, the individual baron becomes totally dependent on the king's permission to have the scutage of his men. The system is more complicated than at first, but the tendencies to a greater national unity are visible in this institution as in others.

CHAPTER V.

THE SCUTAGE UNDER HENRY III.

The Scutage, having become firmly implanted in the constitution, continued under Henry III and Edward. But it was little more than the survival of an institution which had seen its best use. It began with the idea of being in some measure a pecuniary equivalent for the service which was the part of military fiefs. It no longer can pretend to be anything like such an equivalent, but the institution, being so well established, is kept up under fiction of law, while the real compositions for feudal service are made in other ways.

The first period of Henry III, 1216 to 1227, was that of the regency. The following scutages were levied :

Occasion		Levy				Rate
Army of 1217 (?),		1218 (called "the first")				2 <i>m.</i>
Siege of Biham,	1221	1211 ¹	-	-	-	10 <i>s.</i>
Army of Montgomery, 1221 ²		1223 ³	-	-	-	2 <i>m.</i>
Siege of Bedford, - 1224		1224 ⁴	-	-	-	2 <i>m.</i>

The scutage of 1218 is designated, like the first of John, as "first after the first coronation." It probably was in reference to an army raised in 1217 against Louis VII, for in some of the writs for collecting it is the clause, "*scias quod A. B. venit ad fidem et servitium.*"⁵ The siege of Biham was short, being from February 3 to February 8; the scutage was at a correspondingly low rate; there was no objection raised against another army of the same year, which was against Wales. In this period of the regency, when the barons in council had virtual control of the government, each one of these levies of scutage was by consent

¹ Close R., I, 475; Lanc., Lay Sub., 124.

² Mat. Par., III, 64.

³ Mat. Par. says the scutage was granted 1221, but the writs were issued 1223. (Close R., I, 570.)

⁴ Pipe R., 8, H. III; Madox, I, 669.

⁵ Close R., I, 373.

of the barons. Thus, in the scutage of 1218, it was said in the writs "which was assessed by common council of our realm."¹ In 1221 news of a rebellion was brought while the king and barons were sitting at Oxford, and there the army of Biham was decided upon;"² in 1221 the grant of scutage by the magnates was said to be at the time the army was dismissed; in 1224 the form of expression is varied somewhat: after the capture of Bedford castle the barons who were with the king granted for his expenses a carucage, and the king in turn granted the magnates a scutage, after which the army was dismissed.³

The other scutages of this reign were as follows:

Occasion	Levy	Rate
Army of Wales, 1228 ⁴ (Kerry), - - -	1229	2 <i>m.</i>
Expedition to Brittany, 1230, - - -	1230	3 <i>m.</i>
Expedition of Poitou, 1230, - - -	1231	3 <i>m.</i>
Expedition against the Marshal, 1233, - -	1233	20 <i>s.</i>
Aid for sister's marriage, - - - -	1235	2 <i>m.</i>
Expedition to Gascony, 1242, - - - -	1243 ⁵	3 <i>m.</i>
Aid for daughter's marriage, - - - -	1245	20 <i>s.</i>
Expedition of Gaunoc, 1245, - - - -	1246	3 <i>m.</i>
Aid for knighting son, - - - -	1252	3 <i>m.</i>

It may now be stated as law, both in theory and in fact, that a levy of scutage should be by consent of the council, and the fact of a grant is generally carefully stated in the official documents.⁶ Even the refusal of a single churchman to assent to a levy seemed to have been some ground for his exemption. In the Pipe Roll for the fifth year it is stated that the Bishop of Winchester was charged with 159 *m.* for the first scutage, but it was testified at the Exchequer by Hubert de Burgh, William Briwere, and other barons, that the Bishop of Winchester never consented to the granting of the said scutage. This was admitted

¹ Close R., I, 349.

⁴ Mat. Par., III, 158; Ann. Dunst.

² Mat. Par., III, 61.

⁵ Madox, I, 609.

³ Mat. Par., III, 88.

⁶ "Auxilium regi concessum ad primogenitam filiam suam maritandam." (Pipe Roll 39, Hen. III.) "Fines militum ne transfretarent cum rege in Wasconiam praeter scutagia sua quae regi sponte concesserunt." (Pipe Roll 30, Hen. III.)

to be true by William Mareschalle, the rector, and by the council. The bishop was acquitted.¹

After Henry's return from France in 1231, Matthew of Paris says that in a council at Westminster the king "exacted" a scutage, but the Archbishop of Canterbury and other bishops resisted the demand on the ground that the clergy were not subject to the decisions of the laity, and a grant had not been made by themselves. After a little delay they yielded.² The expeditions of Brittany and Poitou were really a continuous one, and the chronicle of Peterborough says that two scutages were levied in one year.³

There is sufficient evidence to show upon what enfeofments most of the scutages of Henry III were made. It does not appear that John brought about any new method of assessment, for the old baronies are accounted for on the same basis as under Richard and John. For example: In the scutage of Biham the Earl of Clare is acquitted by writ for 131 and $\frac{2}{3}$, $\frac{1}{3}$, $\frac{1}{4}$, $\frac{1}{8}$, $\frac{1}{9}$, $\frac{1}{10}$, $\frac{2}{30}$ fees, and $9\frac{1}{4}$ fees of the countess.⁴ This is the same number accounted for as old enfeofment in 1168.⁵

In the scutage of Poitou, William de Albineio accounts for 33 knights, the same number as one of the same name accounted for in 1168.⁶

In the scutage of Brittany the Earl of Warwick renders account for $102\frac{1}{3}$ fees;⁷ in 1168 the Earl of Warwick rendered account for $102\frac{1}{3}$ fees old enfeofment, and 2 new enfeofment.⁸

In 1129 the estate of Roger Bigod was discharged by writ of the scutage of Kery for $125\frac{1}{4}$ fees old enfeofment, and $37\frac{1}{2}$ new enfeofment.⁹ The *carta* of Hugh Bigod for 1166 shows 125 old enfeofment and 35 new enfeofment.¹⁰ Such discrepancies are not infrequent, owing to errors in the transcriptions.

¹ Madox, I, 290.

³ Chron. Pet., II.

² Mat. Par., II, 200.

⁴ R. 5, H. III; Madox, I, 666. There is an extra $\frac{2}{3}$ in the writ, which is undoubtedly a mistake.

⁵ R. 14, H. II, 59.

⁸ R. 14, H. II, 59.

⁶ Madox, I, 640, and R. 14, H. II, 59.

⁹ R. 13, H. III; Doc. Scot., 188.

⁷ Madox, I, 640.

¹⁰ Lib. Nig., 283.

In 1129 John de Bailliol owes 125 *l.* for the relief of 30 fees which his father Hugh de Bailliol held of the king *in capite*.¹ The *servitium debitum* of Bernard Bailliol was 30 knights, and he omitted to send a *carta* in 1166.

In the scutage of Gannoc one Luvetot rendered account for $\frac{1}{3}$ of 10 fees of Nigel de Luvetot.² In 1168 a certain Nigel de Luvetot held 10 fees.³

The Prior of Coventry continued to pay for 10 knights, and in 1146 the Abbot of Ramsay was acquitted for 4 knights, and the Bishop of Ely for 40, the numbers of their *servitia debita* respectively.⁴

These instances go to show that the general methods of assessment were not changed. The lay barons paid for their old enfeofments and the clergy for their knights *quos recognoscit*, and where the tenement was in the king's hand he received what accrued from all enfeofments. In other words, the *cartae* of 1166 were still relied upon at the Exchequer to determine the returns of scutage. The old baronies were breaking up and passing into the hands of different parties, but to identify the fiefs the old names were often retained. Thus:

In 1229, of those discharged by writs were Hubert de Burg for 31 $\frac{1}{2}$ fees of the honor of Peverell of London, and Earl John of Huntingdon for 10 fees of the same honor.⁵ The Honor contained 41 $\frac{1}{2}$ and $\frac{1}{8}$ knights in 1168.⁶

The name of the old holder often continues to identify the land, as "the land which was Henry de Essex's."⁷ It seems desirable to prove these points at each stage of the subject, because they have always been somewhat uncertain in the minds of writers.⁸

¹ R. 13, H III; Doc. Scot., I, 189.

⁵ Doc. Scot., I, 188.

² Madox, I, 667.

⁶ R. 14, H. II, 40.

³ R. 14, H. II, 103.

⁷ Doc. Scot., I, 189.

⁴ Madox, I, 639, 667.

⁸ "We must speak with great diffidence about this matter (*i. e.*, the way in which tenants-in-chief discharged their obligations), for it has never been thoroughly examined, and we are by no means sure, that all scutages were collected on the same principle." (Polluck and Maitland, I, 249.)

While it was as a rule true that the barons, having fulfilled their obligations to the king in one of several ways, could in turn demand like services of all their tenants, which services might amount to more than they owed the king, there was at least one levy which was an exception to the rule. As to the aid for the marriage of the king's sister, 1135, the Annals of the Dunstaple state: "Pro quibus petitum et concessum fuit generale scutagium duarum marcarum per totam Angliam, non solum de feodis habitis in capite de rege, sed etiam de aliis cultis."¹ That is, the grant was for a scutage to be collected according to the entire number of knights' fees, whether held *in capite* or otherwise. In the writs to the sheriffs for the collection of this aid it is stated that "it was provided by the council that we should have from each of the fees of knights who hold of us *in capite* and of wards, new enfeofment as well as old, two marcs," etc.² The sheriffs were directed themselves to distrain all free tenants who held of lords by military service.² This was but a return to the principle adopted by Henry II in 1168. The Annals of Teukesbury say that the bishops paid nothing,³ but in the following year there is a letter patent to the clergy upon this subject. The letter is instructive as showing that generally they did not answer for all their fiefs, but retained some "for their own use," and the exceptional nature of this grant is included in the promise that it will not be derogatory to the churches in the future.⁴

The principles on which the various scutages were levied seem to be simple enough, but in application they were complicated in several ways. The Close Rolls of Henry III give a good idea of the process by which scutage was collected, but

¹ Dunst., 142.

³ Ann. Theok., 97.

² Writ for the collection of scutage, Sel. Char., 364.

⁴ "Rex. . . . Sciatis quod cum nuper rogassemus Archiepiscopos, Episcopos, Abbates, Priores, et alias personas Ecclesiasticas de Regno nostro, quod pro urgenti necessitate nostra auxilium nobis impenderent, Ipsi gratis et spontanea voluntate sua communiter nobis concesserunt quoddam Auxilium de omnibus feodis suis, tam de illis de quibus nobis respondent quando Scutagium datur, quam de aliis quae retinent ad opus suum, videlicet duas marcas de Scuto. Ne igitur hujusmodi concessio et auxilii praestatio possit aliquo tempore trahi in consequentiam, concedimus . . . in posterum non derogetur." (Pat. 20, H. III; Madox, I, 608.)

while the evidence is most clear for the period of Henry III, much of what is presented is also true for the preceding period. It had become quite customary for a levy of scutage to be in accordance with a grant by the barons. But this was only one side of the matter. It was quite as essential that the king in turn grant the barons their scutage, that is, the scutage of their tenants. The king's grant might be made in a general way, as when after the siege of Bedford he granted the magnates who were in attendance a scutage and dismissed them.¹ Regularly each baron had a special writ *de scutagio habendo*, to show that he was entitled to the scutage of his men. A scutage roll for the army of Poitou of Henry III contains 162 names of tenants who were summoned without special writ; after each name is a writ like the following:

Rex . . . cancellario suo, etc. Mandamus vobis quod habere faciatis A. B. scutagium suum de feodis militum que nobis tenet in capite, sc. de scuto tres marcas pro exercitu nostro Pictavie post primam transfretationem nostram in quo fuit nobiscum per preceptum nostrum.²

The Close Rolls abound in such writs. We can imagine there was a time when the baron by himself settled with his tenants about the payment of scutage and other aids. In 1182 the Abbot of St. Edmunds asked aid from his knights, who with some demur promised him 20s. from each one.³ But with the growing influence of the king's court all controversies over services between lord and tenant might be tried upon appeal of either party in that tribunal. The king gave a writ to a lord directed to the Sheriff of Devon for having a reasonable aid from his fiefs to marry his eldest daughter, and all his knights came to his court by summons and granted to him 20s. from each fief.⁴ The king might permit a lord to tallage his tenants or restrict him from tallaging certain ones.⁵ In the 27th year of Henry III the king writes that the bishops "have granted

¹ Mat. Par., III, 88.

³ Jocelin de B., 20.

² Bird, Genealogist, 1884.

⁴ Bracton's Note Book, 1146.

⁵ "Nos non concedemus de cetero aliqui quod capiat auxilium," etc. (Mag. Char., 15.)

1229, "Rex vicecomite . . . Praecipimus tibi quod, occasione tallagii, de quo tibi praecipimus, quod faceres illud habere priori et Dunstaple, de hominibus suis de

us from each of their knights' fees 40s., for so many as they are held to answer to us when they make us military service. And we have granted to the same bishops that for making us the above said aid they shall have from each of the knights' fees which are held of them 40s."¹ With the writ for having scutage went the distraint of the royal officers, and, if necessary, they assisted the mesne lord in the collection. In 1218 many barons had writs addressed to the sheriffs as follows:

"We direct you that without delay you aid our beloved and faithful A. B. to distrain his knights and free tenants for his fiefs and wards, and all others who hold by military service, to render him their scutage . . . with which he ought to answer to us by his hand at our exchequer."²

The lords might obtain the right of having their scutage in one of several ways:

1. By actual service in the army for which the levy was assessed. It was customary for the marshal to record the name of those attending a campaign, and writs would be issued in favor of such persons. Many of the writs in 1218 contain the clause, "*Scias quod A. B. venit ad fidem et servicium nostrum.*"³ Sometimes under Henry III the barons had no right to collect the Scutage. In the 27th year Swereford, the author of the Red Book, was distrained by his earl for a fee held in Bedfordshire, on the occasion of the levy of scutage for Gascony. Swereford relied on the terms of the grant of this scutage, "*per commune consilium Regni,*" namely, that it should be collected by the sheriff and not otherwise. Accordingly a writ was addressed to the sheriff enjoining him to restore the chattels seized by the earl and not allow the scutage to be collected by anyone but himself.⁴ Under Edward I a petition was formally directed by the bishops, abbots, earls, barons, and others that in return for their services in the wars of Scotland

Dunstaple, non permittas quod ipse talliet homines Willelmi Russelle in eadem villa, nec homines tenentes de hominibus ipsius prioris." (*Ann. Dunst.*, 121.)

¹ Mich. Com., 27, H. III; Madox, I, 609.

³ Close R., I, 373.

² Close R., I, 371.

⁴ Red Book, xlv.

the king direct that they should have the scutages belonging to them.¹ A baron was not permitted to collect scutage from those who did not follow him.² The king might have the tenants give aid for the support of a baron who was actually in service. In 1223 there are a number of writs directed to sheriffs to this effect: "Know that we have granted to A. B. that he have his scutage from his knights in your bailiwick to sustain himself in the army of Wales, where he now is by our command."³

2. If a knight could not himself go to war, he was ordinarily allowed to furnish a suitable substitute. This is implied in the record of the scutage for 1172, which was paid by those "who neither went to Ireland, nor sent knights or money thither."⁴ But as service by substitute was necessarily by consent of the king or lord, a baron was often made to pay a fine for being permitted to serve by a substitute. In the 12th year of John, Gilbert Percy paid a fine of 4 palfreys that he might send two knights to serve for him.⁵ There was no regularity in the amount of such fines, and they were determined for each individual case. A person might be acquitted of service in a given campaign by virtue of being in the king's service elsewhere.⁶

3. By Special Fines. Here again it must be recalled that by feudal law the tenant who ignored the summons to war was guilty of a default and was liable to penalty to the extent of forfeiture. Such a punishment was too harsh for ordinary times, and some means of pecuniary composition as a means of satisfying both sides to the contract is not only natural, but is found in practice wherever such obligations existed. The scutage as a general levy seemed for a time to equalize the military burdens between those who served and those who did not; but this condition was only a temporary one. The burdens of

¹ Mem. Parlm., 1305, p. 122.

² In 1221 is a mandate to the sheriff of Cambridgeshire not to distrain or permit to be distrained the knights of the Bishop of Rochester, because the Bishop had his knights in the army of Biham. (Close R., I, 465.)

³ Close R., I, 571.

⁵ Madox, I, 658.

⁴ Pipe R., 18, H. II.

⁶ Close R., II, 10.

knight service were such that a mere payment of scutage could not be considered an equivalent. As an equivalent for the service of 300 knights Richard asked for an aid equal to 3 s. a day for each knight. When a summons to war came, therefore, the baron who did not wish to answer in person must compound for his service with a fine. Such a baron could then collect the scutage of his tenants, and as a rule did not pay the king's scutage in addition. The fines are generally designated as paid, both for freedom from the service and for having one's scutage. The baron, having duly performed his service or having paid a fine which was accepted in lieu of service, was given a writ of the king for having his own scutage; and when directions were given the sheriffs as to how they were to collect the king's scutage they were told to collect "from all who have not our letters," or from all "excepting those who have quittance therefor by our letters."¹ Sometimes, however, fines were paid with a clause saving the scutage of the king.² In the twenty-sixth year of Henry III several tenants paid "fines that they might not take the voyage with the king into Gascony, besides the scutages which they voluntarily granted the king for that voyage;"³ in the third year of John is an item, "from William, Earl of Vernon, no scutage is to be required in any sum, since he has made a fine with the king *pro licentia remanendi*, and that the king would take the scutage of his knights which he holds of the king *in capite*."⁴

Just when fines of this kind began would not be easy to say. Of fines for the distraint of the tenants of a mesne lord under Henry II there is some evidence, as in the following: "Rogerus de Verli deb. 5 m. pro habendo servitio de hominibus suis."⁵ Under Richard the records of fines for passage and for having scutage are considerable. The amount of these fines dif-

¹ Close Rolls, *passim*.

² "Rex remisit David Cumin' transfretacionem suam cum rege in Wascon' pro 20 m. quas regi dat pro remissione' illius passagii . . . salvo tamen regi scutagio." (Lanc., Lay Subs., 117.)

³ Madox, I, 660.

⁵ R. 18, H. II, 31.

⁴ Madox, I, 659.

ferred in a general way from one period to another. Under Richard they were not very heavy. The Bishop of Coventry regularly accounted to the king for 15 knights; in the eighth year of Richard he paid a fine of 25 *l.* for not taking the voyage to Normandy and for having the scutage of 25 knights altogether.¹ In the seventh year of Richard the Countess of Warwick paid a fine of 40 *m.* for having the scutage of 15 knights and for not sending the knights across the sea.² There was no fixed scale for determining the amount of a fine. Under Richard the amounts varied from 20 *s.* to 15 *m.* for a single knight's fee. Under John the average fine, roughly estimated, was from 3 *m.* to 5 *l.* per fee,³ and sometimes as high as 15 *m.* Under Henry III the fines of this kind varied from 5 *l.* to 25 *m.*, and in subsequent reigns from 20 *l.* to 40 *l.* Under Edward the fines were fixed at a rate of 40 *l.* per fee. The relation between scutage and fines may be illustrated by the similar tariffs laid down by Philip III of France. In the thirteenth century the feudal host in that country was already difficult to operate. There were difficulties also about the summoning of rear vassals, whether it pertained to the king or nobles to summon them. The infinite variety of the contracts of vassalage prevented the contingents furnished from being a great help in prolonged or distant hostilities. For example, the Bourgeois of Rouen represented that they owed service in the host not more than one day's journey from town: some persons owed 20 days, others 10 or less. The abbots had failed to exercise their tenants in arms. Many lords preferred to pay a sum of money rather than serve. In 1272 the bishops of Narbonnais protested that they were not bound to the host. Philip was very severe upon such delinquents, and in 1274 offered a fixed scale of the charges to be incurred by the different ranks of soldiers. Barons were charged 100 sous tournois as an equivalent for the expenses which he would have incurred, and 50 sous "*pour l'amende*;"

¹ Madox, I, 638.

² Madox, I, 676.

³ The Earl of Clare, who had over 131 knights, rendered a fine of 500 *m.* for his passage. (Madox, I, 660.)

the banneret 20 sous for expenses and 10 sous "*pour l'amende*;" a knight 10 sous expenses and 5 sous "*pour l'amende*."¹ In the period now under discussion there was no similarity between the different fines of the same year. In the same roll the Abbot of Evesham renders account for 20 *l.* for passage and scutage of 4½ knights' fees, the Abbot of Pershore 10 *l.* for 2 fees, and the Abbot of Westminster 100 *m.* for 15 fees.² The fines were paid either in advance of the campaign undertaken or afterwards.³

In case a baron did not properly perform the service required, and did not, on the other hand, compound for it in a satisfactory way, was the feudal law of forfeiture for default always carried out? The summonses were sent to the greater barons individually, and to all the tenants-in-chief, that they should come prepared to perform the service due, "as they love themselves, their lands, and tenements." Temporary forfeiture of lands was not infrequently carried out, most noticeably under John.⁴

In the Close Roll of 1223 there is a list of persons who had been disseized for not being in the army of Wales in 1221, and whose estates are to be restored.⁵ It is not likely that such disseizins were of common occurrence. It seems to be generally true that those who paid fines for not following a campaign were the greater barons or those who held fees with undertenants. The king could not afford to let his barons off with a

¹ Langlois, Philippe le Hardi, 363-365.

² Madox, I, 660.

³ "Rad' de Comeys dat domino regi 10 *m.* pro eo quod possit morari in Anglia, salvo regi Scutagio suo." (Lanc., Lay Sub., 117.)

"Abbas S. Albani r. c. de 100 *m.* pro militibus suis quos debuerat misisse in servicium Regis ultra mare." (R. I, Jn.; Madox, I, 659.)

⁴ "Malgerus le Vavasur debet 300 *m.* et tres optimos palefridos, pro habenda saisina terrae suae, unde dissaitus fuit eo quod non transfretavit cum Rege in Iberniam, nec finem fecit pro Passagio. (R. 12, Jn.; Madox, I, 663.)

⁵ "Rex Vic' Suf' Precipimus tibi quod David de Lindes qui est in custodia A. Reg' Scott' de omnibus terris suis quas in manum nostram cepiste par preceptum nostrum eo quod non fuit nec habuit nobiscum servicium suum nobis debitum in exercitu Wallie; sine dilatione resaissas." (Close R., I., 628.)

mere payment of scutage, who were the responsible leaders of retinues of knights, great or small, as the case might be. In the case of the small tenant-in-chief, with one fee or only a fraction of one, who had no followers to answer for, the matter stood differently. In the first place, as military tactics were, he was of little use to the king as a soldier; in the second place, he did not have the need which the greater tenants did of buying the assistance of his undertenants. In the writ for collecting the scutage of 1214 the Justiciar is directed to have scutages collected from all fiefs except of those who were in the army of Poitou.¹ In certain writs of pardon it is evident that scutage was all that was asked of some persons for not attending the army.

In the case of subtenants scutage was all that was regularly demanded for failure to follow the lord, and this was by permission of the king and at the rate fixed by him. Many tenants by knight service could legitimately claim that they could not be held to active service, but only to payment of scutage. Some had such rights expressed in their charters, and others asserted their right, which seemed to have for its only foundation a long-continued custom, which they somehow made good by perseverance. In 1198 the knights of St. Edmunds refused to do service in Normandy, though they were willing to pay scutage, and the abbot found himself obliged to hire knights for the king's service.² An early baronial court might have imposed forfeiture on a tenant or a fine for default of service, but feudal courts had declined, and controversies between lord and tenant came before the king's court, so that arbitrary fines imposed by a mesne lord were not possible. The tenants, however, might voluntarily contribute towards the fine which their lord compounded with the king. In the twenty-eighth year of Henry III the Abbot of St. Edmunds agreed with the king to pay a fine of 50 *l.*, provided each of his 20 knights were willing to contribute 50 *s.* towards making up the 50 *l.*, and, in case they were willing, they should not have to pay scutage, in case it were levied.³

¹ Close R., I, 166.

² Chron. Jocelin, 63.

³ Kal. and Inven., Hen. III, 28 y.

While the tenants throughout the country regularly paid scutage at the rate per fee declared by the king, the amount that an individual paid might be fixed by special agreement. A clause in a charter might say, for instance, that when a scutage was levied at 2 *m.* one should pay 15 *s.*¹ One holding of the Abbot of St. Edmunds, when the regular scutage amounted to 11 *s.*, paid $\frac{1}{2}$ *m.*² A certain person held a tenant *in perpetuum* by the service of 4 knights in respect to relief and all other services, but when scutage happened to be given he paid as much as pertained to $5\frac{1}{2}$ fees.³

These facts recall some statements that were made concerning the very beginnings of scutage. The institution found its greatest usefulness in the relations of baron and tenant, and between the king and minor tenant-in-chief, for the material condition of a small vassal of the king was similar to that of the ordinary tenant of a great lord. In 1159 the great barons served in the campaign of Toulouse, while the "rustic knights" paid scutage. In the thirteenth century the great barons had either to serve in the army or pay a fine, just as though the scutage never existed, while the scutage was accepted from the same class of persons as in the early time. In case the tenant refused to pay his dues, the baron had the right of distraint. Glanvil was in doubt whether lords could distraint tenants against their will to pay aid for maintaining wars; yet they could certainly make distraint for relief and the services due from the fiefs.⁴ The favorite mode of distraint was to seize and sell the chattels of a tenant. In case the lord was unable to make the distraint, and many times he was not able, he had a special writ of aid from the Chief Justice,⁵ and the distraint was made by the sheriff. Under Edward I it is declared in a statute that if anyone withhold from his lord his due and accustomed service by two years, the lord shall have an action to demand the land in demesne by a writ of *cessavit*.⁶

¹ Bracton's Note Book, 361, etc.

² Doc. Scot., I, 358.

³ Feet of Fines, 7 John, 66.

⁴ Glanvil, de Legibus, IX, 8.

⁵ *Ibid.*

⁶ Stat. Westm., Ed. I, 13.

In the system of land tenure which we have to consider, a man who was a tenant of one party was also lord of another. Suppose A to be a great lord holding of the king for 25 knights; B holds of A for 4 knights; and still further C is a tenant of B for $\frac{1}{2}$ knight. If matters were running smoothly, the king was not ordinarily concerned with the way B fulfilled his duties toward A, so long as A rendered the service of his 25 knights. In case B did not perform the services to which A had a right, or if A tried to exact from B more than what belonged to him, the king, as the supreme judge of the land, could be appealed to by either party. In case A did not perform the services which the king as his suzerain could demand, the king would make the tenants of A together render those services, no matter what B had rendered to A. If B did not satisfy A, A could distrain C; but if C had rendered his service to B, C had a right of action against B to be acquitted for that service.¹ If B had an acquittance for his service from the king, this availed against any demand of A. If it was in doubt whether B held of A or of the king, he was safe if he paid the king his scutage.² Likewise, if C could show that he had done the service for A, it availed against B.³ In case of default on the part of B, A might distrain C for more than his right of service, and C's action for satisfaction would lie against B.⁴ If C was in the army, neither A nor B had the right to take scutage from him.

Much can be learned concerning the status of knight tenure from the records of litigation in the king's court. In disputes of the thirteenth century about the kind of services to be rendered for a given piece of land, the smaller tenants were eager to prove, wherever they could, that their lands were held by socage rather than military tenure, and the general tendency was in the direction of such a transformation. While a socage tenure did not lend the holder as much dignity as the other, the reason why it was preferred can readily be seen.

¹ Bracton's N. B., 674.

² "Id. vic. redd' Comp' de 2 m de feodo Rad' de Toeni de mil. quos idem comes clamat sed Rad' de Toeni negat." (R. 14, H. II, 94.)

³ Bracton's N. B., 698, 202.

⁴ Bracton's N. B., 390.

1. The dues were met by a fixed rental, instead of the uncertain demands of aid, scutage, relief,¹ and feudal service in the army.

2. The vexatious rights of wardship and marriage, which often were sources of great abuse, were not connected with socage tenures. The custody of a minor heir was left in the hands of the family instead of the lord.

3. Lands held in socage were partible among sons, whereas those held by knight service were descended to the eldest son, and were partible in case there were daughters only.

4. As a rule a socage tenant had to give fealty, but not to do homage to his lord.²

If one held by mixed service, a tenure was called military by preference. In case of doubt as to the kind of services due from a tenure, a charter was the most convincing proof, and took precedence over other kinds of evidence; but if there was no charter at hand, it was necessary to prove what services had been rendered in the past. If a charter showed that the enfeoffment called for the service of one-third knight, and the lord could show that the service of one-half knight had actually been rendered, the court would accept the terms of the charter.³ The following case at law came up in 1228. Isabella claimed the land of her deceased husband as a socage tenure. Richard claimed that she could not have the custody of the land, since the Earl Marshall, of whom Richard held the fief, had that custody, and admitted a charter which he gave Stephen, the husband, by which Richard granted Stephen the land for homage and service; Stephen to render *2m.* a year. Richard and his heirs acquitted him of the forinsec service which pertained to the same one-fourth of a knight's fee, so that the freemen who held of the same fee always did forinsec service for Stephen, so that they gave at the scutage of Montgomery a scutage of $\frac{1}{2}m$. Thus Stephen preferred to hold the one-fourth

¹ Some modifications in regard to Relief. See Polluck and Maitland, *His. Eng. Law*, I, 289.

² Polluck and Maitland, *His. Eng. Law*, I, 286.

³ Bracton's *N. B.*, 657.

knight's fee at an annual payment of 2 *m.* rather than the regular feudal services. At the same time the tenants of Stephen paid him a scutage, which he did not render to his lord. It was decided that the land was not a socage, and that Isabella could not claim the custody.¹ The land owed knight service, though the individual did not.

The Prior of Lewes, as chief lord, placed a land owing military service at a fixed rental ("posuit servitium militare ad denarios"), so that, instead of rendering for one-third knight's fee, it paid 40 *s.* a year. Yet he claimed that it was still a military tenure and was not partible. Six pounds a year for every service seems to have been a common rate for placing a knight's fee at a fixed rental, instead of the ordinary feudal services, at this period.²

As a rule, a lord had the custody of the heirs of his military tenants, but when the same party held lands by socage tenure, as well as lands by military tenure, it was not always possible for the lord to realize this right. Herardus de Vernon could not claim the son of Geoffrey and Katrina, because Geoffrey held 10 librates in socage of other men and 7 acres military of Heverardus.³ If a party were enfeoffed of more than one lord the custody of the heirs regularly went to the lord whose ancestors had made the prior enfeoffment.⁴

Another form of evidence as to whether a tenure were military or not is found in the question of homage. If a person owed homage, the tenement was presumably one by knight service or serjeantry.⁵ If one owed no homage, it was questionable if he owed scutage.⁶ If a land was given *in maritagium*, it was apt to be placed under lighter burdens, and sometimes abso-

¹ Bracton's N. B., 288.

² Wm. Lungespey and his wife were asked by what service they held a knight's fee, and they said for 6*l.* a year for every service. (Bracton's N. B., 627.) The same rate as in the other cases quoted.

Stephen de Ceoherst held a land by rendering 4 *sol.* a year, and 2*s.* scutage when the scutage became fixed at 2*m.* (*Ibid.*, 477.)

³ Bracton's N. B., 237.

⁵ Polluck and Maitland, *His. Eng. Law*, I, 286.

⁴ Bracton's N. B., 661.

⁶ Bracton's N. B., 747.

lutely free. The anomalous condition of such lands remained until after the third inheritance, when it reverted to its former status.¹

It has already been noticed how the older baronies were breaking up. Having reverted to the king, they were given out again, divided among two or more holders. Another way in which they disintegrated was by partition, which was permissible when the holder left no male issue, but more than one daughter. Lyttelton says that from the time of William I to Henry II he knew of no baronies divided into more than three parts, but after that time they split into very small parts, so that under Richard II. a certain knight held one-hundredth part of a barony.² Peter of Savoy held the honor of Richmond for the service of five knights. He complained that, while the honor had been diminished by many knights' fees, he remained burdened for five knights.³ Regarding the unstable condition of feudal territory, the words of Luchaire are as applicable to England as to France: "One seeks in vain in the feudal world for the fixity and regularity which would seem to comport with the *a priori* relations between fiefs. The order of tenures has varied not only from period to period, but considerably within each period."⁴ Before the statutes of 1279 and 1290 of Edward I there were no effective restraints on the alienation of fees or subinfeudation. The clause in the charter of 1217, that "no free man should give or sell to anyone so much of his land that from the remainder the service could not be sufficiently rendered the lord of the fief which belongs to that fief,"⁵ was too indefinite to be effective. The statute *de viris religiosis* in 1279 forbade the fraudulent bestowal of estates on religious foundations, so that the donor might hold them as fiefs of the Church, and the statute *quia emptores* in 1290 directed that in all future transfers of land the purchaser, instead of becoming the feudal dependent of the alienor, should enter into the same relations in which the alienor

¹ Bracton's N. B., 273, 279, 477, 664.

⁴ Luchaire, Manuel, 221.

² Lyttelton, His. Hen. II, III, 127.

⁵ Sel. Char., 346.

³ Letters Hen. III, II, 210.

had stood to the next lord. These enactments operated to correct these abuses. Yet there is some reason to think that if the chief lord could enforce his rights, a tenant might be prevented from making an undesirable enfeoffment, as was once done in 1275,¹ showing that in a measure the statutes of Edward were the recognition of rights which already had some vague existence.

A few words will suffice to discuss the general relation of knighthood and knight tenure of this time. Nothing can be plainer than that the old system of enfeoffment as a basis for the army service was outgrown. The accepted principle that a given piece of land being once a knight's fee was always a knight's fee, no matter how much it was cut up or transferred, coupled with the fact that there were no definite restrictions on alienation or subinfeudation, other than the vague clause in the charter of 1217,² brought the system of knight service to a state of great intricacy. There is nothing unusual in a barony made up of the following enfeoffments, several tenements of 3 fees each, 6 and $\frac{1}{2}$ and $\frac{1}{4}$ fees, 5, $4\frac{5}{8}$, $1\frac{1}{2}$, $2\frac{1}{2}$, $\frac{1}{40}$, $9\frac{1}{2}$, 2, $5\frac{1}{2}$, $2\frac{1}{2}$, $\frac{1}{8}$, $\frac{1}{20}$ fees. Anyone of the tenants of this barony might have several ranks of subtenants holding of one another and of him respectively. Compare such a barony with the cartulary of the Abbey of Peterborough given 1125-28! In the statement of enfeoffments made therein of $66\frac{1}{3}$ fiefs, there is only one tenement of $\frac{1}{3}$ fee, and two of $\frac{1}{2}$ fee.³ It would almost go without saying that the smaller tenants were not of much account so far as the army was concerned. In the cartulary of the Abbey of Evesham the reluctance of its knight tenants to do the king's service is complained of.⁴ The abbots of Ramsey had not followed the method generally adopted by the tenants-in-chief of creating definite knights' fees on their estates. The abbey owed the

¹ Chron. Petrob., 22.

² Charter 1217, § 39; Polluck and Maitland, I, 310.

³ Chron. Petrob., Appendix.

⁴ *Hic notantur milities et liberi tenentes de Abbatia de Evesham, multi injuste fefati, pauci vero juste. Isti nullum servitium faciunt ecclesiae nisi servitium Regis et hoc tepide.* (Burton Cart., 2.)

king the service of 4 knights, but instead of there being 4 tenants who were each time to render this service, there were some 18 who were to elect the 4 who were to serve on a particular occasion, while those who remained were to contribute towards the expenses of those who served in person.¹ The arrangement did not work very well. In 1212 the king sent a special writ to the sheriff, directing him to see that the 4 knights of the abbey of Ramsey who were in his service have *necessaria sua* from the other knight tenants who remained.² In 1258 the abbot brought the manorial court of Broughton together, which selected 4 knights to do the required service at a payment of 4 s. a day, but the tenants would not serve when elected, and the abbot had to hire his knights and serjeants as best he could.³ In 1257 the Abbot of St. Albans could hardly get his military tenants to admit that they owed personal service at all.⁴ The undertenants are not the only ones who showed themselves reluctant to go to war. The tenants-in-chief often preferred to pay fines, though they were heavy, than attend an expedition. In 1142 the king writes to his justiciars to remit the fines which had been made for non-attendance, and induce the knights to come prepared with horses and arms; and if remitting the fines were not sufficient, they should offer money out of the treasury to induce them to come.⁵ There is reason to suppose that when the barons went to war with the king they were not always required to furnish their full service. In 1157, according to Matthew of Paris, whoever owed the king military service was summoned against the Welsh.⁶ The writs of summons to the barons, as printed in the *Foedera*, give the quotas to be furnished by them. *E. g.*:

Roger de Mohun, to serve as a fourth knight, that is, himself with three others.

Henry de Tracy, to serve as a third knight.

John de Corteny, to serve as a third knight, etc.

¹ Chron. Ram., 212, 378; Lib. Nig., 257; Stubbs, C. H., I, 262.

² Close R., I, 123.

⁵ Foedera, I, 404.

³ Sel. Soc., II, 76.

⁶ Mat. Par., V, 639.

⁴ Mat. Par., VI, 372-76.

Only one was to bring as many as 4 knights.¹ These quotas represent but small portions of the fees held by these barons. Thus, William de Bellocamp was asked for three knights; in 1230 he is accounted for 7 knights.²

Robert de Bellocamp for 3 knights; in 1230 he is accounted for 17.³

William de Monte Acuto of Somerset for 1 knight; in 1230 John de Monte Acuto of the same county is accounted for 10.³

Robert de Newburg for 1 knight; in 1230 is accounted for 15.³

At the same time the ecclesiastics were summoned for their full service,⁴ and the Abbot of Ramsey actually endeavored to bring 4 knights, his regular quota, into service.⁵ There is a tendency, which becomes more noticeable under Edward, for the barons to lower their quotas if they could. In the 22d year the king had 24 persons brought together to testify whether William de Fesnes or any of his ancestors did or ought to do more than the service of one knight for the 6 fees which he held *in capite*, and whether the full service of 6 knights was rendered in scutage at the Exchequer.⁶ In 1221 William Mareshalle, the Earl of Pembroke, who was then out of favor, writes to the king that he has learned of the gathering of the force against the Earl of Albermarle and regretted that he had not been summoned. Wherefore he supplicated the king to send him a writ telling him with how many knights he wished him to come.⁷ It will be remembered that the scutages of Henry II were paid with fair promptness at the Exchequer. How different this had become in the 13th century can be seen in the way the scutage of Poitou, levied in the 16th year of John, was rendered for the Honor of Lancaster, which contained $78\frac{1}{2}$, $\frac{1}{4}$, and $\frac{1}{14}$ fees.

¹ Rymer's Foedera, I, 635.

² Madox, I, 660.

³ *Ibid.*, 661.

⁴ Foedera, 636.

⁵ Above.

⁶ Memor., 22, Hen. III; Madox, I, 648.

⁷ Royal Letters, I, 170.

In the Pipe Roll, 17th year of John, the Sheriff renders account									
	for	-	-	-	-	-	-	-	157 <i>l.</i> 12 <i>s.</i> 9 <i>d.</i>
In the Pipe Roll, 2d year of Henry III, the Sheriff renders									
	account for	-	-	-	-	-	-	-	127 <i>l.</i> 12 <i>s.</i> 9 <i>d.</i>
In the Pipe Roll, 3d year,									
"	"	"	"	4th year,	-	-	-	-	127 <i>l.</i> 12 <i>s.</i> 9 <i>d.</i>
"	"	"	"	5th year,	-	-	-	-	118 <i>l.</i> 16 <i>s.</i> 1 <i>d.</i>
"	"	"	"	6th year,	-	-	-	-	107 <i>l.</i> 16 <i>s.</i> 1 <i>d.</i>
"	"	"	"	7th year,	-	-	-	-	107 <i>l.</i> 16 <i>s.</i> 1 <i>d.</i>
"	"	"	"	8th year,	-	-	-	-	102 <i>l.</i> 1 <i>d.</i>
"	"	"	"	9th year,	-	-	-	-	102 <i>l.</i> 1 <i>d.</i> ¹

Although the Scutage grew up as applied to knights' fees only, in the 13th century it evidently was collected from some tenures by serjeantry. It has been shown how under Henry II there was *promissio servientum* of a most irregular kind, but there was nothing of a scutage upon serjeantry tenures. From that time, however, the use of serjeants in the army became of increasing importance. Gneist estimates that the number of serjeants in the armies were to the knights in the ratio of 8 to 1. The muster rolls of Edward show that the difference was greater even than this, for two serjeants were considered exchangeable for one knight, and many owing knight service, especially for fractional parts of fees, offered the service of serjeants. Tenure by serjeantry is the most irregular of all the different classes of tenure, and includes many kinds and all degrees of services.² Some serjeantries called for services in the army,³ and it is not strange that scutage was exacted from such tenements. But it was the exception and not the rule for a serjeantry to pay scutage, for in other cases whether a party should pay scutage or not depended on whether the tenement was by knight service or serjeantry. William Aguilon being able to prove that he held by serjeantry, namely, to furnish a cook at the king's coronation, was acquitted of the scutages charged against him.⁴

¹ Lanc. Lay. Subs., 122-25.

² Polluck and Maitland, I, 262.

³ Persons holding by serjeantry had tenants owing knight service, *e. g.*, for 1 fee, $\frac{1}{80}$ or $\frac{1}{60}$ fee. (Madox, I, 650, 651.)

⁴ Madox, I, 651.

CHAPTER VI.

SCUTAGE AND KNIGHT SERVICE UNDER EDWARD I.

There were several scutages during the reign of Edward I, as follows :

For an army of Wales,	-	-	-	-	1277 @ 40s.
“ “ “	-	-	-	-	1282 @ 40s.
“ “ of Scotland,	-	-	-	-	1300 @ 40s.
An aid to marry daughter,	-	-	-	-	1302 @ 40s.
For an army of Scotland,	-	-	-	-	1303 @ 40s.
“ “ “	-	-	-	-	1306 @ 40s.

The feudal army was thus called upon only for insular wars. The time had not come for a standing army, but the continental wars were manned by Welsh and Scotch mercenaries and by subsidized forces from Flanders or Castile.¹ The rate of the royal levies was uniformly 40*s.* on the fee, although by the first statute of Westminster, 1275, it was decided that the aid taken by a lord to knight his son or marry his daughter should not be over 20*s.*² In reference to the levies of knight service for this period many curious features present themselves. In the first place it was quite impossible for the Churchmen to get their military tenants to do service. The Abbot of Peterborough in 1277 could not prevail upon his men to serve even at his own expense.³ Out of a list of 48 bishops and abbots in the Parliamentary Writs of 1277, 8 rendered their service by knights or serjeants.⁴ The difficulty of obtaining fully equipped knights is evident on all sides. Most of those attempting to render their service do so by means of serjeants, two serjeants being commonly accepted instead of one knight. One who owes 4 knights presents 2 and requests that he be permitted to do the service in

¹ Foedera, II, 637, 676.

³ Chron. Petrob., 24.

² Statute, Sel. Char., 450.

⁴ Parlm. Writs, I, 197.

two periods of 40 days.¹ In 1282 the need of horses was such that it is said many could not do their service even if they wished.² Most striking of all is the reduction in the number of fees accounted for by the great tenants-in-chief. Compare the quotas accounted for in 1282 with the old *servitium debitum*.³

	1282	11th century
Archbishop of York, - - -	5 fiefs	20 fiefs.
Bishop of Durham, - - -	9 "	10 "
" " Exeter, - - -	2 "	17 ½ "
" " Bath and Wells, - -	5 "	20 "
" " Lincoln, - - -	5 "	60 "
" " London, - - -	5 "	20 "
Abbot of St. Albans, - - -	6 "	6 "
" " Abbingdon, - - -	3 "	30 "
" " St. Edmunds, - - -	6 "	40 "

The lay barons did about the same, for William de Bello Camp, Earl of Surrey, offered 6 knights, Humphry de Bohun, 3 knights, John Warenne, Earl of Surrey, 11 knights.⁴ Very few proffered more than 3 knights. How this change in the quotas furnished by the tenants-in-chief came about is obscure. The earliest writs of summons which are at hand show that the king was accustomed to call upon the tenants-in-chief for small quotas, when it was unnecessary to bring out the whole force. Thus, in 1234, Henry de Trumbleville is ordered to attend "*te quinto*," that is, with four other knights; Walter Godarville "*te altero*," that is, with one.⁵ To furnish large numbers of knights, as formerly, would under the new conditions be excessively arduous, if not impossible. The great preponderance of the fighting forces was now infantry rather than cavalry. The ratio of cavalry to infantry may be inferred from statements of the chroniclers like the following: "Earl Patrick with 336 mailed horses and 6000 infantry;"⁶ "15 knights, 32 armigers and 1000 foot soldiers;"⁷ "4000 infantry and 200 cavalry."⁸ Most of the

¹ Parlm. Writs, I, 200.

² *Ibid.*, 226.

³ *Ibid.*, 235.

⁴ *Ibid.*, 228, 229.

⁵ Lord's Report, I, 6, 7; Foedera, I, 635.

⁶ Wig., 527.

⁷ *Ibid.*, 484.

⁸ Rishanger, 147.

cavalry used were mounted serjeants, not knights. So that even when all the knight service due was called for, the barons furnished no more than what was reasonably necessary. Gilbert of Clare placed 10 knights in service, with a promise that he would send more if it were found that more were due. So far as the Scutage was concerned this change made no difference whatever. The relations between the tenants-in-chief and the king were no longer on a scutage basis. The king profited by the Scutage only indirectly, as it was paid by undertenants to the lords. The obligations of tenants-in-chief to the king were satisfied by fines, or informal payments "*in garderoba*" or "*in camera*." In 1277 the Abbot of Peterborough paid 250*m.* for the service of 5 knights;¹ in 1282 the same paid a like amount.²

Another mode of summons was analogous to the distraint of knighthood. In 1296 those having 40 librates of land were called upon to provide themselves with horses and arms to follow the king at his expense.³ In 1297 those with 20 librates were summoned. The sheriffs made reports of the persons holding 20 librates in their counties; in Hertford 53, of whom 13 were churchmen; in Nottingham and Derby 181, including 36 churchmen; in Northampton 215, including 48 churchmen and 30 women.⁴ So that in all England there were hardly more than 3000 persons assessed on this basis. On the other hand, if one can estimate from the numbers of infantry which the Commissions of Array were deputed to raise from the several counties, in 1297, from Northumberland 1000, from York 4000, from Lancaster 3000, etc., the available force of infantry for the whole country must easily have been 60,000 foot soldiers.⁵

The Scutage as a means of revenue to the crown was not worth while keeping up. After the reign of Edward I the only levies reported are one under Edward II and one under Edward III. Even an aid levied upon all the knights' fees could not compare in amount with the other forms of taxes. The Fifteenth,

¹ Chron. Petrob., 24.

⁴ *Ibid.*, 294.

² *Ibid.*, 40.

⁵ Parlm. Writs, I, 308.

³ Parlm. Writs, I, 278.

in 1224-25, was at least 31,000 *l.*;¹ the Thirtieth, in 1237, was 22,000 *l.*;² the Twentieth, in 1270, was 31,488 *l.*³ As an influence against the feudal character of the chief lords the institution had outlived its day. The lords were little more than middle men, who by a fiction of law had to be reckoned as a factor in passing money from the lower tenants to the crown. They made the grants in Parliament, but in so doing they acted in the capacity of legislators representing more or less truly the nation. On the other hand, the collection in behalf of an individual lord had to be by the officers of the crown or by permission of the same. The methods of collection were complex, and the operation of a levy was becoming more and more slow, the payment of the money more and more reluctant, until in the 10th year of Edward II collectors for the scutages of the 28th, 31st and 34th years of Edward I were sent out, with injunctions "*quod rebelles et inobedientes Collectoribus Scutagii amerciantur.*"⁴ The scutage of the 5th year was enrolled in the 7th year, and that of the 10th year in the 15th. The whole system was unnatural, because it rested upon historical tradition whether a piece of land owed this kind of service or not, and it took laborious inquisitions from time to time to ascertain the true status of the tenants. The burden of proof whether he had fulfilled the service or not rested with the tenant, and he might have to prove 17 years back that he or his ancestor had done the service required.

Knighthood and knight tenure did not necessarily go together. If one was a knight, it did not follow that he held land by knight tenure; if he held by knight tenure, it did not follow that he was a knight. In 1224 was an order that every layman of full age who held a knight's fee or more should have himself knighted.⁵ Fines were taken for respite under this order.⁶ 1234 was an order that all holding *in capite* a knight's fee or more should take arms and be knighted.⁷ 1242 there was an order to the sheriffs

¹ Lanc., Lay Subs., 15.

² *Ibid.*, 49.

³ *Ibid.*, 101.

⁴ Madox, *His. Exch.*, I., 684.

⁵ Close Roll, II, p. 69.

⁶ Close Roll, II, pp. 26, 36.

⁷ Royal Letters, I, p. 456.

to distrain all those having lands, whether in knight's fee or socage, to take arms. At the same time the sheriffs were told to leave in peace any who had not as much as 20 librates, even if they had an entire knight's fee.¹ 1254 those having 20 librates were summoned to do service.² 1256 there was a distraint of all those having lands to a yearly value of 15 *l.* to get themselves knighted, or to pay fines for respite.³ The distraint of knighthood at the rate of 20 librates or even 15 librates is not to be considered unreasonable so far as the rate is concerned. It seems to be the general rule that actual knights' fees were not worth nearly as much as 20 *l.* a year. It is true that as early as Henry II there are instances of 20 librates of land being held as an equivalent of a knight's fee.⁴ But in general the assimilation of 20 librates to a knight's fee was a gradual process, and even then was a somewhat artificial estimate. A certain barony whose value is stated to be at 94 *l.* a year held for 30 knights.⁵ One finds scrips of land held as follows: 10 librates for the service of 1 knight;⁶ 50 librates (Anjevin money) for 1 knight;⁷ 4 librates and 4 solidatae for $\frac{1}{2}$ knight;⁸ 25 marcatae for 1 knight.⁹ The distraints were not empty threats, for in the 17th year of Henry III Roger de Sumery was disseized of all his lands in Worcestershire for neglecting to take the honor of knighthood upon summons.¹⁰ It seems that not a great number of persons were found eligible to knighthood in this way. In 1254 there are 5 names returned for the county of Lancaster, of those holding 20 librates of land *in capite* of the king.¹¹ In 1256 the sheriff of Lancashire reported the names of 6 as holding 15 librates and more.¹² Aside from the fact that not many persons

¹ Close Roll, 26, H. III; Lanc., Lay Sub., p. 62.

² Sel. Char., p. 376.

³ Lanc., Lay Sub., p. 28.

⁴ "Et Comes Galfridus de Mendeville dedit domino Gwarino fratri meo, et mihi Sabriteswrthe pro 74 libratis terrae; singulas 20 libratas pro servicio 1 militis." (Red Book, p. 356.)

⁵ Bracton's N. B., 1182.

⁸ *Ibid.*, p. 84.

⁶ Rot. Char., I, p. 33.

⁹ Doc. Scot., I, p. 43.

⁷ *Ibid.*, p. 34.

¹⁰ Brady, Introduction to the Old Eng. His., p. 36; Lanc., Lay Sub., p. 30.

¹¹ Lanc., Lay Sub., p. 28.

¹² *Ibid.*, p. 29.

had a revenue as great as 20 *l.* a year, it may be suspected that the assessments were not strictly made. Edward I, in his 18th year, wrote to the sheriffs of London to distrain all those holding 40 *l.* a year in land or rent. The sheriffs made answer that although they had inquiries made of good and lawful men upon oath, they were unable to find anyone in London who had 40 *l.* a year for certain.¹ In the 30th year of Edward a like order received a similar reply.¹

If a person was distrained for knight service or knighthood on the ground of having 20 librates, or 40 librates, as the case might be, it did not follow that his land became a knight tenure in the sense that an ancient knight's fee was. A plea in the Common Bench illustrates this point. The case was whether B, who held by escuage of A, owed also aid for the marriage of an eldest daughter. It was held that the aid was not accessory to escuage; "for if one holds of you 20 librates of land, and you are about to distrain him for making your eldest son a knight, and he can show that none of your ancestors was ever a knight, I think that you cannot avow the taking."²

While the institution of knight tenure was declining in these ways there was, on the other hand, a corresponding effort to maintain the honor of knighthood itself. While men shrank from the burdens of military tenure it was something of an honor to be a knight. It was customary for the royal family to have the princes knighted upon state occasions, and at the hands of eminent persons. In honor of the marriage of Edmund of Cornwall in 1272 many noble youths were knighted.³ When the young Edward, in 1306, was knighted, 300 others were knighted the same day, and 600 that week.⁴ John de Blount, the mayor of London, accepted knighthood at that time. In the records of the 13th century a knight is commonly given the title *dominus* (Sir), as *dominus Johannes Heyron Miles*. In giving the list of a jury it was worth while to indicate which ones were knights. In the functions relating to the government the knights ranked

¹ Lib. Albus.

² Year Book, XX, Ed. I, p. 260.

³ Wykes, p. 251.

⁴ Annal. Lund., I, p. 146.

next to the barons, in the order of ecclesiastics, earls, barons, knights. A clear distinction between knight and baron is not easily made. In a general sense a baron was any person holding of the crown *in capite* by military service.¹ But there is a distinction, borne out in Magna Charta, between greater barons and lesser barons.² When it is stated that the king called the barons in Parliament, the word meant simply those barons whom the king chose to summons, for there is no hereditary right on the part of the barons to be summoned before 1295.³ A barony was a mere collection of knights' fees, and there was no particular number of knights' fees necessary to constitute a barony. So that a fixed distinction between barons and knights who were tenants-in-chief cannot be made for this period. The knights were early employed in matters of administration, for service on juries, and took precedence over other "lawful men," and in the 13th century they found a place in Parliament. Suit at court, however, was generally regarded in the light of a burden, and even summons to Parliament was not at first sought after as an honor and a privilege, but as the means of mitigating demands for money.⁴ So that altogether the honor of knighthood did not counterbalance the disadvantages.

¹ Pike, Const. His. House of Lords, p. 89.

² Mag. Char., § 14.

³ Stubbs, C. H., II, p. 192; Pike, p. 93.

⁴ Pike, House of Lords, p. 92.

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